

# Exhibit Q



(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defendant



Black case (Pending case) No.Or.36/2540

1,2's witness (brough witness)

Court: Central Intellectual Property and International Trade

Date: 22 Month: September Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already took an oath, would like to testify as follows:

1. My name is Mr. Somphot Saengdueanchai
2. Date of birth: -, age: 57
3. Position or profession: contractor
4. Residing at: 99/9, Chiengraknoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:

**Answer the Defendant1, 2's attorney examination**

I graduated from filming department of Bangkok Technical College in 1960.

During my study, I worked at the advertisement division of the filming department of Government Saving Bank.

In 1962, the Government Saving Bank of Thailand sent me to study advertisement in Japan.

During my work at Government Saving Bank, I took a special job as photographer to some magazine such as Vittayasan, Chaiyapruk and Chaokrung.

I knew Hem Vejjakorn who worked at the art department of Chaiyapruk magazine.

Mr. Hem Vejjakorn had drawn illustrations for the stories like Khaki and Vessantara. Moreover, he also drew posters for the history of Buddha.

The illustrations drawn by Mr. Hem Vejjakorn have been submitted to the court by defendant's attorney as per document Lor.239.

The cover page is a photocopy of the picture of Garuda drawn by Mr. Hem Vejjakorn.

Garuda is an animal in Thai literature for more than 100 years.

As far as I know, there is no Garuda in Japan.

I have studied the literature named Ramayana which is Thai literature translated by King Rama II of Thailand. There are a lot of animals in this literature such as monkey, giant and etc. The story originated from India.

I have collected pictures since I was in the 12th grade. The pictures appear in the album as per document Lor.240.

While working at the Government Saving Bank, the bank published some album for kids and I was a photographer and editor for the album, as per document Lor. 241, while this album (as per document Lor.242) presented to the Court is the original copy.

I used to work with Mr. Hem Vejjakorn and we were photographed together, as shown in the album as per document Lor.243.

In 2505 B.E. or 1962, I went to study advertisement at Toho Co., Ltd. in Tokyo. My study covered the producing of movie.

I was the first person from Thailand who officially study at Toho.

The reason I have to study in Japan is because my brother in law, Mr. Vatee Pongvech, who worked at Bank of Thailand, and his friends, Mr. Sommai Hundakul and Dr. Buay Engpakorn, supported me to study there. Mr. Vatee and Mr. Sommai were Japanese alumni. Besides, those three people knew the President of Japanese Mitsui Bank, Mr. Kirijilo Sato. Mitsui Bank was the largest bank in Japan.

The reason I have to study advertisement and filming at Toho is that Toho was the biggest Film Studio in Japan at that time, distributing its work all over the world.

Until now, I was the first and the only Thai who had studied at Toho.

Mitsui Bank had arranged a study program for me, I was allowed to study there for 2 years. I finished the program and received a certificate after 1 year.

Newspaper had interviewed me and published my story during my study. On my graduation, the newspaper also interviewed and published my story. For instance, the newspaper Sanseri dated 7 October, 1962 as shown in document Lor.248 and the newspaper Kiatisak, as per document Lor.244. I have collected them into the album as per document Lor.245.

According to the newspaper as shown in album as per Lor.245, I received the certificate from the President of Toho, Mr. Utaka Chibayama, who was a world-class director at that time. He was the same person as shown in picture as per document Lor.122.

The famous person in filming industry was Mr. Akira Kurosawa, the biography of him was shown in document Lor.246 and 247. His famous works are Rashomon, Seven Samurai and others award winning movies from several international competitions. The famous directors today, such as Stephen Spielberg and George Lucas, used to be the student of Mr. Akira. The Star War movie was developed from Mr. Akira's work.

Some other famous filmmakers of Toho were Mr. Ishirō Honda, Mr. Eiji Tsuburaya and Mr. Hiroshi Inagaki. Mr. Eiji Tsuburaya was the only special effect technician at Toho and in Japan.

Those famous filmmakers and producers were all my teachers. Document Lor.178 shows their signatures and blessing message given to me. The signatures were given around 1962, when there was a ceremony on 30th anniversary of Toho

The blessing of Mr. Eiji can be translated as "Hope that little Sompote have attempts and endurance". The blessing was written in English on 12 July, 1962. The signature of Mr. Eiji also appeared.

"Little" which pronounces "Kong" in Japanese is used for the offspring, while the word "San" is for normal people. I personally called Mr. Eiji "Otto San" which means "Father".

At that time, Toho was famous for movies related to culture and fantasy. King Kong and Godzilla are their famous characters popular in Thailand and all over the world.

The red circle mark was the company seal of Toho.

King Kong and Godzilla were produced by having the actors wear the costume. A person who was specialized in this kind of production was Mr. Eiji Tsuburaya.

Mr. Eiji was the producer of King Kong and Godzilla of which copyright belonged to Toho. These movies received enormous box office, the market targeted at kids and young people.

The signature of Mr. Eiji, when reading horizontally, was in English, but when reading vertically from the reverse side of paper was "Tsuburaya Eiji" in Japanese.

Mr. Noboru also has this unique style of signature. This is unknown to the stranger.

As far as I know, except me, nobody has ever received a document containing the signatures of all famous directors as shown in the document Lor.178.

The current president of Toho, Mr. Isao Matsuoka, said that he was the president of Toho, but had never seen so many directors giving their signatures in the same paper. It's a priceless document. Moreover, Mr. Kazuo had offered JPY 5 million (equals to approximately 1.5 million THB) to buy it.

The album, as per document Lor.248, shows the painting of Ramayana at the wall in the Grand Palace. It was my collection given as a gift for each director mentioned above.

(The witness has given the testimony until this time at 15.00 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the next appointment.)

/ read

|                                            |                                                  |
|--------------------------------------------|--------------------------------------------------|
| ..... (Signature) .....Judge (record-read) | ..... (Signature)..... Witness                   |
| (Mr. Phonphet Wichitchonchai)              | ..... (Signature)..... Plaintiff's attorney      |
|                                            | ..... (Signature)..... Defendant 1, 2's attorney |
| ..... (Signature).....Judge                | ..... (Signature)..... Defendant 3's attorney    |
| (Mr. Sonchai Sirariyakul)                  | ..... (Signature)..... Defendant 4's attorney    |
|                                            | ..... (Signature)..... Defendant 2               |
| ..... (Signature).....Associate judge      | .....(Signature)..... Defendant 3                |
| (Mr. Pramuk Sawatmongkol)                  |                                                  |
|                                            | ..... (Signature)..... Court officer             |

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Testimony of Defenant 1,2's witness



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(brough)

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Date: 23 Month: September Year: 1999

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Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already took an oath, would like to testify as follows:

1. My name is Mr. Somphot Saengduanchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, Chienraknoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:

Answer the Defendant1, 2's attorney examination (Continue from the appointment on 22  
September 1999)

Person situated at the left side of a picture, presented to the Court, as per document Lor.249, was a manager of Mitsui bank, Thailand branch. The person situated at the right side was me, while the person situated at the center of the picture is a famous Japanese actor. This picture was published on the newspaper in Thailand, as per document Lor.243 and Lor.245.

There was no other foreigner studied the film production at Toho Co., Ltd.



President of Mitsui Bank, a friend of the president of Toho Co., Ltd., was a person who recommended me to Toho Co., Ltd.

The Thai Embassy in Tokyo considered me as an honorary person. They viewed me as the person who broadcasts a country's reputation. As a result, the Thai embassy would invite me to many reception parties as appear on the invitation as per document Lor. 250. Field Marshal P. Phibunsongkhram, while on his exile in Japan, also gave me a picture, as per document Lor.251.

The personal of Toho Co., Ltd. acknowledged my status in Japan and the president of Mitsui bank also had the manager of Mitsui bank in Thailand to be my interpreter in the first two months.

On the second day, when I reported myself with the president, the president of Mitsui bank had ordered Mr. Fujimoto, the managing director of the studio, to take care of me. On that day, even Mr. Eiji Tsuburaya also had a lower status than me.

My status was at the same level as the manager of Toho Co., Ltd. I was sat at the same table with them while eating.

Afterward, 2 months later, I had a free time with Mr. Eiji Tsuburaya. I did not have to shoot movie like other employees and Toho Co., Ltd. would take care of me.

The screenplay writer, the shooter, light manager, screen manager photographer was considered as lower officer.

The rule of Toho Co., Ltd. was that the photography was prohibited in the studio because they wanted to keep their trade secret. However, I was permitted to bring the camera in and permitted to take photo.

The photo (as per document Lor.252) was taken with Japanese actor in the film studio. In addition, there is a detail appears in the photo album as per document Lor.243, Lor.245 and Lor.253.

The person involved with the production of King Kong and Godzilla movie, which were the human wearing a monster figure, was Mr. Eiji Tsuburaya.

I watched Godzilla movie and told Mr. Eiji that this type of film had only destruction and there should be a hero who defeats such monster. Godzilla should not be a hero because Godzilla is an animal. Mr. Eiji agreed that there should be a giant human to defeat Godzilla and other monsters.

Mr. Eiji said that he needed to create the new character. So I told him that I had an idea.

After he had gotten my idea, Mr. Eiji told me that he wanted to create his own television movie and would create the character for the television by himself not through Toho Co., Ltd.

Thereafter, Mr. Eiji established Tsuburaya Tokugi Production Co., Ltd. (Tokugi means Special Effect), which thereafter would be Tsuburaya Production Co., Ltd. (Plaintiff).

Mr. Eiji's production was still based on the human wearing a costume, targeting on children and youngster, which was a good creation. In his opinion, there would be no blood and the hero must not have a violent character but rather had a charm smile. The hero needed to defeat the monster of the same size and needed to have more power than the monster. The special effect would be used in the production.



On that day, Toho Co., Ltd. focused on the production of film movie and did not produce the television movie. As a result, in order to avoid the competition with Toho Co., Ltd., which is a giant in the film industry, Mr. Eiji focused on the production of the television movie.

Mr. Eiji did not have the talent on the creating the character.

I presented him a photo gallery so he can choose the character of the hero.

I made a photocopy of picture of Garuda as per document Lor.239 and some pages in other 3 books as per document Lor.254 and gave them to Mr. Eiji. In addition, I also gave the album of the Thai literature such as Ramakien and Kritong to Mr. Eiji.

Character of the first designed ULTRAMAN as per document Lor.18, which was called Bemlor, was from the outline of the Garuda. Afterward, it was developed into Redman, which the idea was from the book as per document Lor.254.

The picture, as per document Lor.254, was a Viking warrior, which was the god of the fighting.

The ULTRAMAN is similar to the picture in page 1353 of the Encyclopedia, as per document Lor.254. Such book has the content specifying that it was published on 1961 and broadcasted on 1962. The book has several pictures related to Thailand such as temple and giant. I took a photocopy of the pictures to Mr. Eiji, which specially liked a picture of giant.

All the pictures attached in the book, as per document Lor.254, were attached by me in order to compare with the picture of warrior in the book. The pictures came from several books and each book was large and heavy. I wanted them to be kept in the same place for convenience in researching and comparison.

The pictures in the book, as per document Lor.254, is a cut and paste picture of Godzilla and ULTRA Q.

The original outline of ULTRA Q is pursuant to the bookmarked page of document Lor.17.

Mr. Eiji had seen the picture of the warrior and still disapproved because it still looked violent. I proposed that in order to make it softer, he needs to use the Buddha statue.

The outline of Buddha statue proposed to Mr. Eiji is pursuant to the cut and paste picture in the book, as per document Lor.234, and picture No.21-24 in the album as per document Lor.243.

Picture 24 of document Lor.245 is a picture of Mr. Eiji looking at the album of Buddha statue, as per document Lor.243.

As a result, the outline of ULTRAMAN face, used by Mr. Eiji, came from Sukhothai Buddha statue.

The Plaintiff's testimony that the outline of ULTRAMAN face came from Japanese Buddha statue, pursuant to page 38 of document Lor.102, is inaccurate. This book, which referred to by the Plaintiff, was written by the critic who did not know the fact.

I gave the picture of the Buddha biography, painted by Mr. Hem Vejjakorn, to Mr. Eiji. In addition, I gave him the pictures of Bodhisattva in several images taken by me from the Japanese museum. I also showed him the replica, which I purchased, to Mr. Eiji.

Mr. Eiji saw them and said that he will use the Thai Buddha statue.

The Japanese Buddha stature, pursuant to book as per document Lor.102, was built around 200 years ago, while the Sukhothai Buddha statue was built around 700 years ago.

In my understanding, before become enlightened, the Buddha had defeated several devils. However, as the Buddha story could not be produced as a movie, the miraculous of the Buddha in order to defeat the devils and teach people was used.

Mr. Eiji told me that the posture of ULTRAMAN should be applied from the form of Superman. I was of the view that the posture of the Buddha when defeating the devil, such as the standing posture, looked similar to the Superman posture, and while the raising hand posture looked like the ULTRAMAN unleashing his power.

The idea of monsters came from the Thai literatures such as Ramakien. The Komora in the ULTRAMAN, pursuant to page 72 of document Lor.18 looked like Torapee and Torapa, pursuant to document Lor.255.

Koragon monster, pursuant to ULTRAMAN book as per document Lor.105, was similar to Thai dragon, pursuant to the compared picture as per document Lor.256. However, as the dragon is a 4 legs monster, it would be hard for human to wear the costume figure. As a result the monster was modified to be 2 legs monster.

There were photos taken while I stayed with Mr. Eiji, pursuant to document Lor.123, Lor.124 and Lor.127 and Lor.257, which was resent.

A picture, as in the first page of per document Lor.257, is picture of Mr. Eiji holding Kritong book.

A picture, as per document Lor.127, is a picture of Mr. Eiji looking at the picture in the album. The picture he looked at is picture No.7 of document Lor.243.

Picture (as per document Lor.124) complies with the picture in a book as per page 129 of document Lor.7.

In the picture (as per document Lor.123) that shows Mr. Eiji looking at postcard and album, the postcard has picture of giant in the album as per document Lor.242, while the album is the album (as per document Lor.240).

A picture as per document Lor.258 is a photo of me taken with Godzilla and King Kong.

The 2 pictures, as per document Lor.259, show the close relationship between me and Mr. Eiji.

Picture, as per document Lor.134, is a photo of me taken with ULTRA Q actor.

All pictures, as per document Lor.260, are the photo taken during the shooting of ULTRAMAN movie. On the above left picture is a photo of Mr. Kurakata, the mechanic, and Mr. Toru Narita, which claimed by the Plaintiff as the designer of ULTRAMAN's character.

Mr. Kurakata was the inventor of mechanism at the heart and forehead of ULTRAMAN and the original mold of the ULTRA SEVEN, pursuant to physical evidence as per document Lor.261.

In summary, I involved with the production of ULTRAMAN because I was the proposer of idea since the beginning to Mr. Eiji Tsuburaya. After the proposed idea had been agreed, Mr. Eiji ordered his team to follow the idea.

I did not involve with the performance with the team because my status is too high to be the screenplay writer, photographer or sketcher.

Mr. Eiji also did not involve with the screenplay writing, photographing, sketching or performance, which were done by the team.

The team member followed the order from Mr. Eiji and was in the position of employee. Although they drafted the outline, sketched the outline or wrote the screenplay, they are not the copyright owner.

(The witness has given the testimony until this time at 12.00 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature).....Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Sirariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature).....Associate judge .....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer

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1. My name is Mr. Somphot Saengduanchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, Chienraknoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:

**Answer the Defendant 1,2's attorney examination (Continue from the morning)**

The name "ULTRAMAN" came from "OTTOMAN", pursuant to bookmarked page book (as per document Lor.254).

OTTOMAN means the Turk warrior who wore armor.

Mr. Eiji preferred to use the word "Urutoraman", which is a Japanese word means "somersault". However, Mr. Eiji finally decided to use the word "ULTRAMAN".

When using the word ULTRAMAN in Thailand, I named it as "Super Human".

The reason for establishing of Tsuburaya Production Co., Ltd. and Tsuburaya Enterprise Co., Ltd., while still working with Toho Co., Ltd is because Mr. Eiji saw that he has already done so much for Toho Co., Ltd.

The reason I create the ULTRAMAN's character as human because I saw that human is above the animal.

The management of Japanese company is that when the boss gave the order, everyone must comply with that order, like the order from the emperor.

Whether in any age, the management of Tsuburaya Production Co., Ltd. and Tsuburaya Enterprise Co., Ltd. is that when the president gave the order, everyone must comply with that order. The director has the duty only to follow the work assigned.

Most of the directors climb up from the low level employee.

After I had returned to Thailand, I produced the movie to broadcast on the television. Thereafter I produced the movie to be screened on the cinema. Most of my movies are based on the Thai literature and the folk tale.

For the form of movie which has a human wearing the costume figure, I produced Thatien, which is a story of the battle between Wat Jang giant and Wat Pho giant (Wat means temple), pursuant to document Lor.107, Lor.108 and Lor.109. The movie was successful and earned a lot of revenue and also received a plaque, as per document Lor.262.

The portfolio of my movies production is pursuant to document Lor.263.

The Phaendin Wippayok (แพนดินวิฬง) movie was successful. The president of Toho Co., Ltd. wrote the certification for me, pursuant to document Lor.264 with Thai translation attached at the end. This certification was handwritten, which was the tradition that only close friend would write to each other.

The Thai ambassador in Japan also issued the letter to congratulate me, pursuant to document Lor.265.

Document Lor.266 is the certification from Toho Co., Ltd. to thank me for the assistance in the film production and appointed me as a member of Toho Co., Ltd.

Other movies also received the plaques, pursuant to document Lor.267.

The movies, which I produced and involved with Plaintiff, are "HANUMAN AND 7 ULTRAMAN" and "GIANT AND JUMBO A".

The GIANT AND JUMBO A received a plaque, as per document Lor.263, while HANUMAN AND 7 ULTRAMAN also received a plaque, as per document Lor.269.

In addition, I also received an award from the Asian film contest in Indonesia, pursuant to the certification and the award, as per document Lor. 270.

Furthermore, Toho Co., Ltd. also licensed me a copyright of Ikkyusan and Doraemon movie, pursuant to document Lor.271.

Document Lor.272 is the agreement that I hired Plaintiff to assist in the production of Jorake (จอร์จ) movie in Thailand.

Document Lor.273 is the agreement which I sold the HANUMAN AND 5 KAMEN RIDER movie to Shaw Brother Co., Ltd, Hong Kong.

When the Department of Intellectual Property allowed for the registration of copyright, I registered the copyright, pursuant to document Lor.33, Lor.34.

I had displayed my works in the World Trade 95 exhibition at Nakhon Ratchasima province, pursuant to document Lor.36 and Lor.274.

In the World Trade exhibition, I also displayed the pictures of ULTRAMAN and monster, pursuant to document Lor.275.

Document Lor.276 is a calendar of HANUMAN AND 7 ULTRAMAN and HANUMAN and 5 KAMEN RIDER.

I hired the Plaintiff to produce the GIANT AND JUMBO A movie in the amount of USD 45,000.

The paper used for copy during 1973 would be glossy and wet.

Document Lor.37 is a notice, which the Plaintiff notified me to make a payment for the material cost and wage.

List No.1 and No.2 is a wage, while list No.3 is material cost.

Mr. Noboru signed his signature on the agreement, as per document Lor.177, before me and the reporter from newspaper and television at Mr. Noboru's house in Tokyo.

Before the production of GIANT AND JUMBO A would start on 16 June 1973, Mr. Noboru used to invite Taiwanese person to jointly produce the movie with me. The Taiwanese person would invest in the amount of USD 30,000 and I would invest in the amount of USD 20,000. The agreement was signed at Tsuburaya Enterprise Co., Ltd., pursuant to document Lor.277.

My counterparty was Sing Iwa Co., Ltd., which is the distributor in Hong Kong, while the main company is in Taiwan. The THAI BULIN means my party. This movie used the character from GIANT AND JUMBO A movie.

On that day, Mr. Noboru was the president of both Plaintiff and Tsuburaya Enterprise Co., Ltd.

This agreement was already signed and has Mr. Lee Kenlin (read in Chinese as Lee Shien Long) signed as witness. Mr. Lee Shien Long is the person pursuant to the name card (at the bottom) as per document Lor.220.

Mr. Noboru introduced me to those 2 Taiwanese men. Afterward, Mr. Noboru informed me that Taiwan had refused to produce the movie. Mr. Noboru told me that if I invest alone, he will reduce the price for USD 5,000. I agreed and hired Plaintiff to produce the movie, pursuant to document Lor.177.

In addition from the production cost in the amount of USD 45,000, the Plaintiff also requested for the film maintenance fees and material cost, which used in the additional production in the amount

around JPY 5,000,000, pursuant to document Lor.278. In addition, I also had to make a payment for the expense for the special effect in the amount of JPY 1,600,000 to Den Film Co., Ltd., pursuant to document Lor.162.

The agreement, as per document Lor.177, was made at Mr. Noboru's house before the actors and the reporters from newspaper and television. There was a photo taken on that date, 5 October 1973. However, the date appearing on the reverse side of the photo is 16 October 1973, which is the date that the picture was printed in Thailand, pursuant to document Lor.219. The first photo was the actor taken with me. The photo at the bottom was Mr. Noboru taken with me and Mr. Toyoaki Dan, while the person without a name specified is a reporter.

I had traveled to Japan on 22 September 1973 and returned on 13 October 1973.

The evidence of the entering Thailand is pursuant to the arrival seal, dated 13 October 1973. However, there is no Thai immigration departure seal because it is on another page in the lost passport without photocopy taken, pursuant to the copy of the photo of the passport as per document Lor.279.

The screenplay of this movie is pursuant to document Lor.110. This document specifies that I and Mr. Toyoaki Dan are the producer.

The person in document Lor.177 is Mr. Arkira Tsuburaya, Hiroyasu Yamaura and Mr. Bunzo Wagaugi, which their names show in the screenplay (Lor.110).

Document Lor.177 and Jor.22/1 are the copy taken from the same original document. The document Jor.22/1 was taken by me and certified the correction. It was taken on 1996 and gave to Mr. Ugawa, who said that he would examine it in order to prepare the apology letter for me.

Plaintiff had notary public to notarize the signature of Mr. Noboru in this copy (as per document Jor.22/1). As a result, my copy will not have the notary public certification seal.

Thereafter, Mr. Takano had signed to certify this copy when submitted to the Economic Crime Suppression Division.

When I examined signature of Mr. Noboru in document Lor.177 and signature in the dispute 1976 agreement as per document Lorr.10, I certified that they were similar because they were signed before me.

The agreement, as per document Lor.177, regulates the duration for the producer to submit the original film to me within 20 December 1973 (such agreement was dated on 5 October 1973).

This agreement is the agreement for the production of 60 minutes film.

The payment was made in 2 installments. The first payment in the amount of USD 15,000 was made in 11 October 1973 and the second payment in the amount of USD 30,000 was made in 30 November 1973.

The materials needed to be sent are listed in Clause 4. Clause 1, 2, 3 was original negative, original positive and S.E. tape respectively. Detail is as on document Lor.177.

Document Lor.37 is the invoice in the amount of USD 15,000, which has 3 lists and complies with Clause 4 of the agreement as per document Lor.177.



Clause 4 of document Lor.177 specifies 16 mm S.E. tape because it is almost half cheaper than 35 mm with the same quality.

Clause 2 of the agreement, as per document Lor.177, explicitly specifies the expense and the payment date. When examining document Jor.83 which was claimed by the Plaintiff as the agreement of the same issue, it could be seen that Mr. Noboru really signed his name in such agreement before me. In addition, when comparing signature of Mr. Noboru in the agreement with signature of Mr. Noboru in the invoice as per document Lor.37, I saw that they are similar. The Plaintiff also has never disputed that signature of Mr. Noboru in document Lor.37 was false or inaccurate.

When I signed my name on the document Jor.83, there was neither handwriting written in Japanese nor other numbers appeared on the document. The agreement, as per document Jor.83, had not actually been performed. I signed my name in the agreement because the agreement was made for the Plaintiff's trade benefit in Japan and would not be used in Thailand.

I do not know whether or not or any particular type of the trade benefit which Mr. Noboru claimed in order to make the agreement.

I and Mr. Noboru did not have the intention to comply with the agreement. The Japanese handwriting appeared should later be written by the Plaintiff's personal. I have never thought that Plaintiff would use this agreement for the exploitation.

The reason I signed the agreement, as per document Jor.83, after I had already signed the agreement, as per document Lor.177, even I did not have any intention to comply with the agreement, is because Mr. Noboru told me that the agreement will be used for the benefit of Plaintiff and for the sake of Mr. Noboru who was like a brother to me.

Pursuant to this agreement, as per document Lor.177, the Plaintiff did not calculate the copyright fees for JUMBO A and has never requested for the payment. Plaintiff was a contractor for production.

The content specified in the original copy of the agreement, as per document Jor.83, is inaccurate. Due to the fact that the name of specified producer, pursuant to document Jor.83, is Mr. Noboru, but his name was not appeared in the screenplay, as per document Lor.110, although he requested his name to be specified in order to use it in the Plaintiff (company).

The production cost was of the similar content but with the different amount.

Document Jor.83 uses the word licensee and licensor but the agreement, as per document Lor.177, does not use these two words as there was no license fee payment.

However, the agreement, as per document Jor.83, also does not specify the amount of license fee.

Mr. Hiroyasu Yamaura and Mr. Bunsho Wakatzuki, pursuant to agreement, as per document Lor.177, use the word scenario, which has the same meaning as screenplay in document Lor.110 but document Jor.83 uses the word writer.

Document Jor.83 specifies that the production cost for 60 minutes movie is in the amount of USD 15,000. I saw that it is impossible because the cost of the film was already paid. The invoice, as per document Lor.37, in the amount of USD 15,000 can be distinguished into 2 lists of wage and 1 cost of tape, which are the actual prices.

However, the Plaintiff's invoice, as per document Jor.83, in the amount of USD 15,000 is the cost of film and tape.

The agreement, as per document Lor.177, does not specify the scope of the exercise of right as it is the film production agreement. However, Clause 5 of document Jor.83 limits the exercise of right in several countries.

In addition, the agreement, as per document Jor.83, specifies that the agreement was made on 26 November 1973 and the delivery date was on 13 December 1973, which was 17 days apart. The 60 minutes movie, which uses special technique, cannot be made within that period as it will need 2 months to prepare the special technique.

Clause 2 of the agreement, as per document Jor.83, specifies that the production cost in the amount of USD 15,000 will be paid upon the receiving of the revenue but specifies the payer and receiver as Licensee and Licensor respectively. I am of the view that it is unusual as the producer would request for the money prior to the production.

Document Jor.83 specifies that it needs approximately Baht 100,000 to purchase the 33 mm tape. Such amount was the rate at that time. The amount of 16 mm tape is half of such price.

The invoice, as per document Jor.83, dated on 13 November 1973 (note: it was misspelled to Noember). However, the agreement was dated on 26 November 1973, which is impossible because it is the debt collection before the agreement occurred.

The asking for payment was done on 7 March 1974, while the real agreement, as per document Lor.177, was dated on 5 October 1973.

In summary, the agreement, as per document Lor.177, has the signature of Mr. Noboru signed before me. The invoice, as per document Lor.37, was also signed by Mr. Noboru. The Plaintiff has never disputed the signature, as per document Lor.37, but Plaintiff brought this signature, as per document Lor.37, to Suimei Institute in order to use as the correct example of Mr. Noboru's signature.

The photo, as per document Lor.188, is the enlarged photo of Mr. Morishima examining the document Jor.83, which taken by me at Keio shopping center in Japan on 14 April 1998. The agreement on the table is document Lor.177. Mr. Morishima accepted that it was accurate. However, for the agreement, as per document Jor.83, Mr. Morishima said that there were many suspicious provisions. Mr. Morishima said that he typed it pursuant to document Jor.83 but did not add the additional content. On that day, we talked around 1 hour and finished 2 glasses of drink, not 10 minutes as testified by Mr. Morishima. Mr. Morishima said that the document Jor.83 was inaccurate and why using it.

(The witness has given the testimony until this time at 5.00 p.m. and still does not finish the Defendant 1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) ..... Judge (record-read) ..... (Signature) ..... Witness

(Mr. Phonphet Wichitchonchai)

..... (Signature) ..... Plaintiff's attorney

..... (Signature) ..... Defendant 1, 2's attorney

..... (Signature) ..... Judge

..... (Signature) ..... Defendant 3's attorney

(Mr. Sonchai Sirariyakul)

..... (Signature) ..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature)..... Associate judge

.....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defenant 1,2's witness

(brough)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 30 Month: September Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Sompote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, chiengraknoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:.

Answer the Defendant 1,2's attorney examination (Continue from 28 September 1999)

The HANUMAN AND 7 ULTRAMAN movie also had the employment agreement, pursuant to document Lor.103, which specifies in such agreement that "White Monkey HANUMAN & 8 ULTRA Brothers" is the same movie as "HANUMAN AND 7 ULTRAMAN" that matches with Clause 1.2 of the agreement (as on document Lor.10).

The agreement (as per document Lor.103) was made by Plaintiff. The signature in the agreement is Mr. Noboru Tsuburaya's signature, which signs initial by using the word N.T. I also signed my signature in this agreement both full and initial.

The word "Chiyo Film" in the agreement (as per document Lor.103) is the trade name of Defendant 2.

The content was type in the agreement by leaving the space to be filled. The handwriting on the space left to specifies the date is mine.

The agreement (as per document Lor.103) specifies the producing cost in the amount of USD 90,000.

Although, this agreement is not licensing agreement, Plaintiff used the word "license, licensor", which on that time the agreement was not understood as licensing agreement. When considers the content, it can be seen that there is no specification of the compensation for the right usage.

There was a production of movie pursuant to the agreement as appears on the photo taken during the shooting (as per document Lor.93, Lor.112, Lor.129 and Lor.164) including the album (as per document Lor.285). The leading actors in this movie are Pawana Chanajit and Yodchai Meksuwan. The photo (as per document Lor.90) is a photo of Pawana and Mr. Noboru.

The shooting staff is appears as on the photo (as per document Lor.16). The Japanese word in the photo can be translated as "HANUMAN AND 7 ULTRAMAM", which was screened at Chalerm Krung cinema. There was the advertising in newspaper and the publishing of poster (as per document Lor.74 and Lor.75 respectively).

This movie was approved the censorship from the authority, pursuant to document Lor.287, which was showed. The photo of the screening of movie at Chalerm Krung cinema appears as on document Lor.54 and Lor.97.

The photo (as per document Lor.54) shows Mr. Noboru hold Defendant 3 with my wife stood beside.

I purchased the costume figure from Plaintiff.

This movie was advertised through the coloring book (as per document Lor.96) and the calendar (as per document Lor.276).

Mr. Noboru broadcasted this movie in movie, VDO and laser disk, pursuant to the VDO (as per document Lor.98), the translation (as per document Lor.9), laser disk (as per document Lor.100) and the translation (as per document Lor.101).

In addition, it also broadcasted on several publishing, pursuant to document Lor.19, Lor.191, Lor.101, Lor.102 and Lor.106, including the album (as per document Lor.105).

There is a picture of the poster of this movie both Thai and Japanese version on page 284 of document Lor.105.

The Plaintiff focused on the broadcast in television.

The evidence, which shows that Plaintiff broadcasted this movie in the cinema, is the book of 25<sup>th</sup> anniversary of ULTRAMAN, pursuant to the inside cover of document Lor.191.

The screenplay of this movie was published by the Plaintiff. The Plaintiff specifies that it was a co-production, which is not true because, in reality, I hired Plaintiff to produce the movie, pursuant to document Lor.41.

Plaintiff published the book (as per document Lor.41) to sell in front of the cinema.

The reason I did not dispute the content in the book (as per document Lor.41) is because I deem that already received the right pursuant to 1976 agreement. The using of right in Japan is Plaintiff business.

Document Lor.229 is the invoice of producing cost of HANUMAN movie by specifies that it is the expense for film and tape, which has a signature of Mr. Noboru in English.

The original copy of document Lor.103 is kept with me. Already examined and returned, matched with document Jor.22 and page 3 of document Lpr.183.

Document Jor.22 is a copy of photo, which has a make of notarize from japan notary public and certified the correction by Mr. Takano.

Plaintiff had taken the photocopy of document Jor.22 before submitted to the Economic Crime Suppression Department and kept in the case document (as per document Lor.6).

The signature of Mr. Noboru in the agreement (as per document Lor.103) and the invoice (as per document Lor.229) have never been disputed by the Plaintiff and the Plaintiff also gave the signatures to the Office of Police Forensic Science to use as a sample for comparison.

The signature of Mr. Noboru and the signature of me in the HANUMAN agreement (as per document Jor.160) are real. The date was written by me and other content is similar. The agreement was made in duplicate (as per document Lor.103 and Lor.160) the word in document Lor.103, which written by me, is the full word of "September" in line 2. While in document Jor.160, I only wrote the short word "Sep".

Although, the Plaintiff sent the sample of Mr. Noboru's signature to investigate both in Japan and Thailand, the Plaintiff did not send the signature in document Jor.160 for the investigation.

Document Lor.288 is a quotation for the ULTRAMAN figure which displayed in front of Chalerm Krung cinema.

Document Lor.22 is an invoice for some part of the producing cost of HANUMAN which Plaintiff made a payment for me.

Document Lor.289 (5 copies) are the invoices of additional expenses from the production of HANUMAN movie, which I ordered the additional produce.

Document Lor.14 is an invoice of the displayed ULTRAMAN figure.

Document Lor.290 is the list of additional expenses, which Plaintiff informed me.

I invested in the HANUMAN movie in total amount of USD 120,000, being the additional expenses in the amount of USD 30,000.

The red square seal affixed on the invoice (as per document Lor.22 and Lor.289) is the seal of Plaintiff's finance department.

The square seal was affixed in order to shows the department that receipts the amount and affixed the seal.

The red circle seal as on the document Lor.14 is a seal of authorized person to act on behalf of Tsuburaya Enterprise Co., Ltd., which in that time was Mr. Noboru. The red square seal is a seal of company's finance department. The black square seal specifies the name of Mr. Noboru Tsuburaya in Japanese and specifies his position as managing director. The above line specifies the name and address of Tsuburaya Enterprise Co., Ltd.

When compares the red circle seal in document Lor.14, which was made in 1974, with the red circle seal in document Lor.10, I find that they are the same seal. The red square seal, which specifies the name and address of company, has the same content but the lines were switched.

When the production had been finished, I went to collect the negative film of HIANUMAN at Plaintiff and kept it at the Tokyo Lab Co., Ltd. in my name. The reason I kept the film in Japan because the weather in Thailand is hot and humid. This was similar to JUMBO A.

However, I did not keep the film at Tsuburaya Enterprise Co., Ltd. because I feared that Mr. Noboru would sell the film to others as it used to happen with GIANT AND JUMBO A.

Sir Run Run Shaw, the owner of the Shaw Brother Co., Ltd. in Hong Kong, used to purchase this HIANUMAN movie.

The Shaw Brother Co., Ltd. is just the trade name and the official name is Southern Company.

Sir Run Run Shaw has the eldest son name Vee King Shaw, pursuant to the name card (as per document Lor.291).

The photo No.1 (as per document Lor.292) was taken with Sir Run Run Shaw at his house in Hong Kong, which I went there with my family. Photo No.2 had 3 persons taken a picture with Sir Run Run Shaw. I agreed to sell the film in the amount of USD 120,000 for the period of 7 years, excepted in some countries such as Thailand, Japan and Taiwan. The agreement, which was made, is as on the document Lor.40.

When agreed to sell the film, Sir Run Run Shaw told me that he will make a payment when the negative is delivered to Shaw Brother Co., Ltd. in Hong Kong. I called Mr. Noboru and told the story. Mr. Noboru asked me to lend him for the period of 1 year the amount of USD 120,000 in order to use in the Plaintiff's business. I agreed and requested Tokyo Lab Co., Ltd. to send the film to Mr. Noboru in order to send the film to Hong Kong. As a result, the agreement (as per document Lor.40) was signed by Mr. Noboru in my place, Mr. Noboru signed in Japanese, which is another type of Mr. Noboru signature.

(The witness has given the testimony until this time at 12.00 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature).....Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Siariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature).....Associate judge .....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer



(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defenant 1,2's witness

(brough)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 30 Month: September Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Soimpote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, chiengrakhoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:.

**Answer the Defendant 1,2's attorney examination (Continue from the morning)**

Mr. Vee King Shaw signed on the agreement (as per document Lor.40) for Shaw Brother Co., Ltd. or Sothern Company.

The evidence which shows that Shaw Brother Co., Ltd. is the same company as Sothern Company is that they have the same address number.

The agreement (as per document Lor.40) was dated on 19 February 1975.

The agreement (as per document Lor.40) specifies the word "IIURAMAN", while the agreement (as per document Lor.10) spells the name HANUMAN as "HARUMAN". However, those 2 are the same movie.

The agreement Lor.10 has reference in Clause 1.2 to the agreement made with Sothern Company, Hong Kong.

Plaintiff has never disputed the signature of Mr. Noboru in the agreement (as per document Lor.40) and Mr. Jimmy Ugawa used to testify in this Court that it was a true signature of Mr. Noboru. Plaintiff has never brought the signature in document Lor.40 to investigate both in Japan and Thailand.

The original copy of document Lor.40 is with Mr. Noboru.

Before the distribution of this movie, I used to screen it at Chalerm Krung cinema and gained Bath 1,000,000 within 7 days.

The movie was screened at Chalerm Krung cinema for around 1 month. It also screened at other cinemas in Bangkok and othe3r provinces and earned the income around Baht 7,000,000.

According to the news in Thairath newspaper (as per document Lor.74), the income specifies in the advertising poster was higher than published because this income needed to deduct tax. I also received a recognition shield for fast earn 1 million baht movie.

Document Lor.262 is a photo of the recognition shield from Chalerm Krung cinema, which the income from Thatian movie exceeded Baht 1,000,000. Document Lor.268 shows the recognition shield of JUMBO A from Coliseum cinema.

Thatian was one of my movies, which earned a lot of income. It earned around Baht 3,000,000, while JUMBO A earned Baht 4,000,000 and HANUMAN earned Baht 5,000,000.

The USD 120,000 was not a lot of money for me at that time.

The reason I lent Mr. Noboru the amount of USD 120,000 is because I deemed that I earned my knowledge from Mr. Eiji Tsuburaya. In addition, this amount was also a support for the Plaintiff.

Although, Mr. Noboru said the he will lend the USD 120,000 for 1 year, he did not make a repayment when it was due. Such amount was equal to JPY 36,000,000.

IIANUAMAN movie had been selected by the National Film Association of Thailand to compete at Indonesia and later won the competition, pursuant to photo (as per document Lor.290).

Sir Run Run Shaw received the title Sir from England, as he was the cultural ambassador through movie. Thailand knows him well because he is famous in film industry.

When compares me with Sir Run Run Shaw, Sir Run Run Shaw is more famous than me. Nobody knows me outside Thailand.

Sir Run Run Shaw purchased HANUMAN movie because it was a famous movie that earned a lot of income. On the other hand, I sold the movie because I want to promote Thai culture worldwide. I sold it at the cost price and hoped to do the business with Sir Run Run Shaw further.

After screened nationwide, the Thai movie could also be screened in Lao but in the amount only around Baht 50,000. Thereafter the negative film would be kept. However, the agreement with Shaw Brother Co., Ltd. lasted for only 7 years and the film negative must be returned and could be screened again.

The agreement (as per document Lor.40) and the agreement (as per document Lor.137) almost have the same content, excepted for the amount of money. The agreement (as per document Lor.137)

specifies the amount only USD 80,000 and does not have a signature of Mr. Vee King Shaw, another party. Mr. Noboru signed his signature on both agreement (as per document Lor.137) and document Lor.40. However, the signature in document Lor.137 is Mr. Noboru personal signature.

I did not involve with the agreement (as per document Lor.137). I received a copy from Mr. Noboru together with the agreement (as per document Lor.40). While I was receiving such agreements, Mr. Noboru told me that the movie had been sold to Taiwan in the amount of USD 80,000.

The person who I kept negative film with, Mr. Masaru Nishima of Tokyo Lab Co., Ltd., called me and told that Mr. Noboru requested to publish the film in order to sell in Taiwan and received USD 80,000. I later acknowledged this when Mr. Noboru gave me the agreements (as per document Lor.40 and Lor.137).

However, this agreement (as per document Lor.137) was not an agreement which Mr. Noboru made with Taiwan but was the agreement that made by Mr. Noboru himself and might pick the wrong agreement.

I do not know the reason why Mr. Noboru prepared the agreement (as per document Lor.137) in the amount of USD 80,000.

Mr. Noboru asked for 1 bundle of calendar (as per document Lor.276), which has around 20 calendars. In addition, he also asked for around 20 movie posters of HANUMAN.

A poster (as per document Lor.263) is a movie poster of HANUMAN movie which was advertised in Taiwan. There were two types of calendar, both vertical and horizontal pursuant to document Lor.294. It will look similar when compares with poster, which used in Thailand (as per document Lor.75).

There was addition of a villain character in HANUMAN AND 5 KAMEN RIDERS into the Taiwan movie poster. Such villain was cut from the calendar (as per document Lor.276), which taken by Mr. Noboru. It is a printmaking in the calendar but it is a painting in the poster. In addition, it also specifies that it was 70 mm film, which actually I produced it in 35 mm film.

The HANUMAN movie sold to Taiwan in the amount of USD 80,000. Mr. Noboru still has not returned such amount to me.

Such action of Mr. Noboru is an offence both civil and criminal. However, for the sake of Mr. Eiji and Plaintiff, I did not file a legal prosecution against him.

The agreement (as per document Lor.273), which I sold the HANUMAN AND 5 KAMEN RIDERS movie to Southern Company also had the signature of Mr. Vee King Shaw. Such signature of Mr. Vee King Shaw was similar to the signature on the agreement (as per document Lor.40).

The ULTRAMAN figure which I purchased to display at Chalerm Krung cinema was the same figure kept in my house fond on the date viewing the scene.

The claim of Plaintiff that the receipt (as per document Lor.161) is the receipt of the licensing fees for HANUMAN movie, which used in Japan, is inaccurate. It is actually the expenses for the taken of negative film and sound negative from Shaw Brother Co., Ltd. in Hong Kong to the Plaintiff in order for the Plaintiff to make a copy and then returned it to be kept in Shaw Brother Co., Ltd. in Hong Kong until 7 years of the term of the agreement.

Plaintiff wanted this movie to be screened in Japan, which was popular in 1979. Plaintiff, therefore, asked me to take the film from Hong Kong. This HANUMAN movie was screened in the cinema, pursuant to the program sold in front of the cinema (as per document Lor.19).

The reason Plaintiff could screen this movie in Japan is because the Plaintiff is entitled pursuant to 1976 agreement or dispute agreement (as per document Lor.10).

The agreement (as per document Lor.10) gave a right to the Plaintiff to broadcast the HANUMAN and GIANT AND JUMBO A in Japan, which the Plaintiff uses such right consistently. Such right is pursuant to the 1976 agreement. Should Plaintiff denial 1976, it will mean that the broadcasting of such 2 movies infringed my right and the copyright of such 2 movies belong to me as the hirer of Plaintiff to produce such movies.

The infringement of copyright in Japan is deemed as serious crime with up to 5 years imprisonment penalty. President and director of company will also be liable.

I did not file a legal prosecution against the Plaintiff for the broadcasting of such 2 movies in Japan because I accepted the Plaintiff's right, pursuant to 1976 agreement.

The agreement (as per document Lor.40) gives the exclusion for Japan. As a result, it is lawful for Mr. Noboru to request me to take the film from Shaw Brother Co., Ltd. to broadcast in Japan.

On 1984, Mr. Noboru brought the ULTRAMAN ZOFFY television movie, which was produced in 16 mm film, to enlarge the film scale to 35 mm and could be screened in the cinema for 4 hour, pursuant to document Lor.46. Thereafter, he gave the film to me to edit this film with an old film in order to increase the amount of ULTRAMAN character to 11 characters. I used a special editing technique to edit the film and screened it in the cinema as HANUMAN AND 11 ULTRAMAN. This was a compensation for me from Mr. Noboru without any charge, excepted for the expense of the equipment to enlarge the film in the amount of USD 18,000, pursuant to document Lor.30.

I did not make a payment of licensing fees. Although there was a new ULTRAMAN character occurred, I would be entitled for such character pursuant to 1976 agreement.

I screened the HANUMAN and 11 ULTRAMAN in other countries such as Taiwan, pursuant to the document to license the right to broadcast this movie (as per document Lor.295).

(The witness has given the testimony until this time at 4.0 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the next appointment.)  
/ read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature).....Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Siariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature).....Associate judge .....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defenant 1,2's witness

(brough)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 1 Month: October Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Sompote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, chiengraknoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parics: Defendant 2

And will testify as follows:.

**Answer the Defendant 1,2's attorney examination (Continue from 30 September 1999)**

There were 2 agreements made with Southern Company. The first agreement (as per document Lor. 40) was in the amount of USD 120,000. Another agreement (as per document Lor.137) was in the amount of USD 80,000. Both agreements have signature of Mr. Noboru on them with different type of signature.

The reason why I claim that Mr. Noboru had signed his name on both agreement is because the Japanese alphabet (Kanji) written in horizontal can been read as Tsuburaya Noboru. However, Japanese language can also be written and read in vertical. When reverses the vertical alphabet to compare with eccentric alphabet, by looking from the behind, it can be read as well as horizontal alphabet, pursuant to the sample (as per document Lor.296).

The evidence which shows that Plaintiff screened the HANUMAN AND 6 ULTRAMAN is appeared as on the picture of show card attached in front of the cinema (as per document Lor.297. There is a mark of FUJI, which shows that it is the screen of this movie. On the cover of the screenplay of this movie also has a Japanese word written in Japanese that FUJI Co., Ltd. is a distributor and broadcaster.

I did not involve with the event which Plaintiff's attorney brought Mr. Noboru's signature to investigate in Japan. The original copy, which is kept with me, has never been submitted for the investigation.

I did not involve with the preparation of document Jor.172, Jor.173, Jor.174, Jor.175, Jor.176 and Jor.177. I do not certify the accuracy of such documents. I can only certify the signatures on document Jor.83, Lor.10, Lor.177 and Lor.183 that they are signature of Mr. Noboru.

In the beginning, during 1963-1965, which at the time Toho Co., Ltd. still hold the shares in Plaintiff, the business operation of Plaintiff was passable. Thereafter, Mr. Eiji had died on January 1970 before Toho Co., Ltd, withdrew its' shares. Mr. Hajime was the next president for 1 year before his death. When Mr. Noboru became the next president, Plaintiff almost bankrupted due to the debt from the purchase of expensive equipment, withdrew of shares of Toho Co., Ltd. and the bad income from the decrease in ULTRAMAN movie viewer. Normally, the principle income of Plaintiff came from the ULTRAMAN movie set. Mr. Noboru had come to see me and told me that he had purchased only single trip ticket and if I do not help him, the plaintiff will fall in the crisis. He then consulted me whether he should sell the company.

I advised him Mr. Chuchep Panjasank to help purchase the ULTRAMAN movie sets, ULTRA SEVEN and other 2 movies. I myself purchased 2 television movies and made an advance payment for him.

Mr. Noboru wrote in his biography (as per document Lor.8 or page 40 of Jor.159) of his traveling to Thailand with single trip ticket.

There were photos taken when I picked and sent Mr. Noboru at Don Muang airport, pursuant to document Lor.53 and Lor.228.

Document Jor.177 is the agreement, which Mr. Chuchep purchased movies from Plaintiff in the amount of USD 8,575, (as per document Jor.177). Document Lor.298, submitted by Plaintiff specifies the purchase amount in USD 5,460 and USD 4,550.

The movies which I purchased from Mr. Noboru are as on document Lor.138 or Jor.179, which are the same document. I purchased the movies in the amount of USD 10,800. This agreement had Mr. Noboru jointly signed his eccentric signature, together with my signature.

In addition, I also purchased another set of movie, the ULTRAMAN TARO, together with those in the agreement (as per document Lor.138 or Jor.179) in the amount of USD 10,800. I also made the agreement for this transaction but I cannot find it now.

When there was a content that is crossed out or added in the agreement, which Mr. Chuchep purchased movies from Mr. Noboru, pursuant to document Jor.177 and Lor.298 or the agreement, which I purchased the movies from Mr. Noboru, pursuant to document Lor.138 and Jor.179, Mr. Noboru would signed initial as "NT".

There are several agreements (as per document Lor.139), which are documents that submitted by Plaintiff and similarly signed initial by Mr. Noboru as "NT".



Mr. Noboru also signed initial as "NT" in the agreement, which I hired Plaintiff to produce HANUMAN movie, pursuant to document Lor.103 or Jor.160. As a result, the document which signed initial should be deemed as actually signed by Mr. Noboru.

On this agreement (as per document Lor.103 or Jor.160), Mr. Noboru signed initial as "N Tsuburaya". This signature is similar to the signature in the biography of Mr. Noboru (as per document Lor.8), which Mr. Noboru signed and sent to me.

As a result, the signature signed in the book (as per document Lor.8) is actually the signature of Mr. Noboru, which signed in front of me.

There are several documents which have Mr. Noboru's "N Tsuburaya" type signature such as document Lor.229, Lor.37 and Lor.29.

In the book (as per document Lor.8), in addition to Mr. Noboru's "N Tsuburaya" type signature, Mr. Noboru also signed his full name and surname as "Noboru Tsuburaya".

The book (as per document Lor.7), which given to me from Mr. Noboru, is a biography of Mr. Eiji. In this book, Mr. Noboru signed for me both eccentric and full signature. His full signature is similar to the signature (as on document Lor.8), while the eccentric signature in this book (as per document Lor.7) is similar to the eccentric signature of Mr. Noboru (as on document Jor.179, Lor.137).

Miss Tomiko Kojima gave her testimony to certify this eccentric signature of Mr. Noboru (as per document Lor.137) that it is a true eccentric signature of Mr. Noboru.

It can be seen pursuant to such document that Mr. Noboru had a different types of signature in English.

Mr. Noboru signed his full signature in the disputed 1976 agreement (as per document Lor.10) and the agreement (as per document Lor.177) also has the full signature of Mr. Noboru.

When Mr. Noboru told me that he want to sell the company, I paused him and said that I am willing to help. At that time I had cash in my hand around Baht 3,000,000 and several land plots. I would not suffer from helping Mr. Noboru.

With my assistance and the purchase of movies from Mr. Chuchep, Mr. Noboru earned totally in the amount of USD 40,000, which was around JPY 12,000,000.

In addition, Mr. Noboru also received the income from the production of JUMBO A in the amount of USD 75,000 and the income from the production of HANUMAN in the amount of USD 120,000.

The sale of HANUMAN movie to Shaw Brother Co., Ltd. in the amount of USD 120,000 (which was told to be 1 year loan but still has not returned) and the sale of movie to Taiwan in the amount of USD 80,000 were done by Mr. Noboru without my permission.

In summary, Mr. Noboru earned the benefit from my assistance in the amount around USD 400,000, which in that time was equal to JPY 120,000,000. The cost of leaving in Japan at that time was still cheap.

After received my assistance, Mr. Noboru started to recover in 1976.

Mr. Noboru told me that he want to compensate my assistance. He, therefore, made the 1976 agreement (as per document Lor.10 or Jor.23) as compensation for me. Such agreement assigns me the right in all ULTRAMAN movies including JUMBO A and assigns the copyright and all



trademarks to me. As on that time there were only 6 ULTRAMAN characters, the agreement specifies that other new ULTRAMAN characters will also belong to me.

The evidence of Plaintiff suffered from financial crisis is the Japanese newspaper, which published the interview of Mr. Kazuo Tsuburaya, dated on 28 September 1998 that Plaintiff suffered the crisis after the death of Mr. Eiji, pursuant to the highlighted content in document Lor.133. However, the part of Mr. Kazuo's interview in \* mark is inaccurate. In summary, the part of the interview on the crisis of the company is true but the reason for the recovery is not true because Mr. Noboru never told the story about my assistance to Mr. Kazuo and Mr. Kazuo still was a child when the company suffered from crisis.

I had a good relationship with Tsuburaya family. I used to call Mr. Eiji "father". I also considered Mr. Noboru as my "brother". When I went to Japan, I would stay at his house. On the other hand, when Mr. Noboru came to Thailand, he would stay at my house.

Mr. Kazuo used to play with Defendant 3 when they were a child. Mr. Kazuo used to stay at my home for a month when his school closed on summer.

The below photo No.3 (as per document Lor.295) was taken at Plaintiff's office. It is a photo of Defendant 3 taken with Mr. Kazuo.

The photo, pursuant to the book (as per document Lor.7) is a photo taken when I attended Mr. Noboru's bone embedded ceremony in Japan. The photo (as per document Lor.34) is a picture of Mr. Noboru hold Defendant 3, which is similar to the bookmarked page in the album (as per document Lor.285).

The person who is in the circle mark, pursuant to picture (as per document Lor.16) is Mr. Chukiet Boonruam, whose is the same person in circle mark, pursuant to picture (as per document Lor.163 and Lor.164). The kid in the picture (as per document Lor.163) is Defendant 3, taken in Japan in front of Mr. Noboru house. Mr. Chukiet used to be my driver before sent to be Mr. Noboru driver for around 2 years. The picture (as per document Lor.163) was taken in Japan, while the picture (as per document Lor.164) was taken in Thailand.

The agreement was made at Tsuburaya Enterprise Co., Ltd. in Japan on 4 March 1976, which also matched Defendant 3's birthday. Mr. Noboru signed his name and affixed the hango seal before me.

The evidence which shows that I was in Japan on 4 March 1976 is my passport. I had leaved Bangkok on 24 February 1976, having the triangle departure seal affixed in my passport. I had entered Hong Kong on the same day and applied for Japanese visa at Japanese embassy in Hong Kong. Thereafter on 28 February 1976, I had traveled to Taiwan. As a result, I will also have the departure seal of Hong Kong (No.2) and arrival seal of Taiwan (No.3) respectively.

On 29 February 1976, I had departed from Taiwan and entered Japan on the same day, having departure seal of Taiwan and arrival seal of Japan (No.4).

I had departed from Japan on 5 March 1976 and entered Hong Kong on the same day. On 7 March 1976, I had departed from Hong Kong and entered Thailand on the same day. The Thai arrival seal is in another passport, which attached together.

This copy of the passport was taken when there was the preliminary examination. The original copy was missing after the copy was submitted to the court. The back of this passport is attached with another passport which I believe is still exist.

I wrote some notes with my handwriting in the original copy.

I reported to the police about the missing passport at Phaya Thai police station, pursuant to the copy of the daily report (as per document Lor.300).

Mr. Noboru placed this 1976 agreement in the company envelope and sent to me. Such envelope is as on document Lor.301.

This 1976 agreement specifies the licensor, which is me, as the president of Chaiyo Film Co., Ltd. Such name is my trade name. The company is located at No.71/1, Soi Ari, Phahon Yothin Road.

Mr. Noboru clearly said that this 1976 agreement is the assignment of all right, not the licensing of right. I will be entitled to right in the territory worldwide, excepted Japan, which shall belong to Plaintiff.

When I was registering the copyright with the Department of Intellectual Property, I specified that Mr. Noboru is entitled to screen the movies in Japan. This appears as on the document Jor.90.

The agreement (as per document Lor.10) specifies the name of movie in Clause 1.1 as "GIANT VS JUMBO A" means the GIANT AND JUMBO A, which I hired the Plaintiff to produce the movie, pursuant to the agreement (as per document Lor.177). Clause 1.1 also refers to the agreement that sale this movie to Taiwan, which I already gave the testimony.

The name of movie in Clause 1.2, "HANUMAN AND THE SEVEN ULTRAMAN", means HANUMAN AND 7 ULTRAMAN, which I hired the Plaintiff to produce the movie, pursuant to the agreement (as per document Lor.103). In addition, there is a reference to the agreement, which sale this movie to Southern Company in Hong Kong.

As I hired the Plaintiff to produce the movies in this Clause 1.1 and 1.2., the copyright is definitely mine but there is a specification in this agreement in order to shows that the Plaintiff already received the money, pursuant to the agreement as referred in Clause 1.1 and 1.2. In addition, as these 2 movies also have both ULTRAMAN and JUMBO A character included, the agreement, therefore, clearly specifies that I am also entitled for both characters because Mr. Noboru said the he will assigned all characters to me.

The Plaintiff specifies in Clause 1.1 of the agreement to refer to the agreement with Hu Long Film or the agreement with Southern Company in Clause 1.2 in order to shows that the copyright in these 2 movies belongs to me, not the Plaintiff. If they belong to the Plaintiff, the Plaintiff will need to refer to the right pursuant to the employment agreement, which claimed by the Plaintiff to be the licensing agreement.

Clause 1.3 specifies the name ULTRAMAN 1 means ULTRA Q. The reason to call ULTRA Q as ULTRAMAN 1 is because Tsuburaya Enterprise Co., Ltd. wants it to be easy for distribution worldwide. In addition, the first of ULTRAMAN movie series is ULTRA Q. Document Lor.302 is the photo book of ULTRAMAN published in Japan. The first page is a picture of ULTRA Q.

The exhibition, which the Plaintiff used to held, pursuant to the picture (as per document Lor.20) was hold in Japan and claimed that ULTRAMAN in the first era is ULTRAMAN Q.

ULTRAMAN 2 movie in Clause 1.4 and document Lor.10 means ULTRAMAN movie set. The picture of the exhibition (as per document Lor.20) also used the same word in page 4 that ULTRAMAN in the second era is ULTRAMAN.

The word ULTRAMAN SEVEN in Clause 1.5 of document Lor.10 means ULTRA SEVEN. The picture of the exhibition (as per document Lor.20) also specifies that ULTRAMAN in the third era is ULTRA SEVEN.

The word RETURN ULTRAMAN in Clause 1.6 of document Lor.10 is similar to the picture of exhibition (as per document Lor.20), means the ULTRAMAN in the fourth era which is RETURN OF ULTRAMAN.

The word ULTRAMAN ACE in Clause 1.7 of document Lor.10 is similar to the picture of exhibition (as per document Lor.20), means the ULTRAMAN in the fifth era.

The word ULTRAMAN TARO in Clause 1.8 of document Lor.10 is similar to the picture of exhibition (as per document Lor.20), means the ULTRAMAN in the sixth era.

The word JUMBORG ACE in Clause 1.9 of document Lor.10 means JUMBO A, which I named it for the usage in Thailand. This is similar to the newspaper (as per document Lor.23). However it is misspelled as "JANBORG". The book (as per document Lor.23) was published during the Cannes Film Festival in 1985.

Document Lor.23 specifies that JUMBORG ACE movie is distributed by Tsuburaya Enterprise Co., Ltd., which I deemed that it was the breach of 1976 agreement. I knew this in 1985 but did not dispute with Mr. Noboru.

The agreement (as per document Lor.10) was published by the Plaintiff. The numbers in parenthesis behind Clause 1.3 to 1.9 are the amount of the episode, 30 minutes per episode.

I did not involve with the production of movies as on Clause 1.3 to 1.9. As a result, I do not acknowledge whether the amount of episode is accurate. The mistake in the name of movie such as ULTRAMAN SEVEN or ULTRA SEVEN is a small mistake, and does not cause the misunderstanding in movie.

Pursuant to Clause 2 of agreement (as per document Lor.10), the assignment of right will start from the date which the negative film was produced for the first time, which will certainly occur before 4 March 1976. As a result, it is retrospective assignment of right. In addition, the word perpetual means there is no due date.

The word "Exclusive right" means the assignment of right to only me.

Clause 3 of the agreement (as per document Lor.10) also included other rights. Actually, if the agreement specifies the only word copyright, it will already cover the other rights. However, the reason to specify other rights is because each country has a different way of understanding the word copyright. As a result, Clause 3 means the right in reproduction, modification, addition, amendment and broadcasting in all media. However, Clause 3.6 does not specify VDO DVD and Laser disk as there was no such media in 1976.

Clause 3.7 also covered the figure, character, cloth, wearable, and weapon. That is to say that include all model and character of ULTRAMAN and monsters, pursuant to document Lor.275, which is a picture that I exhibited at World Trade exhibition on 1995 at Nakhon Ratchasima, pursuant to document Lor.36 and Lor.247. The right, pursuant to Clause 3.7, is the right for the trading. Clause 3.8 also gave the right to assign the right to the third person.

The agreement (as per document Lor.10), which specifies that Plaintiff already received the compensation from me, also has the signature and seal of company's authorized person.

(The witness has given the testimony until this time at 12.30 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

|                                       |                                                  |
|---------------------------------------|--------------------------------------------------|
| (Mr. Phonphet Wichitchonchai)         | ..... (Signature)..... Plaintiff's attorney      |
|                                       | ..... (Signature)..... Defendant 1, 2's attorney |
| ..... (Signature).....Judge           | ..... (Signature)..... Defendant 3's attorney    |
| (Mr. Sonchai Sicariyakul)             | ..... (Signature)..... Defendant 4's attorney    |
|                                       | ..... (Signature)..... Defendant 2               |
| ..... (Signature).....Associate judge | .....(Signature)..... Defendant 3                |
| (Mr. Pramuk Sawatmongkoi)             |                                                  |
|                                       | ..... (Signature)..... Court officer             |

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defenant 1,2's witness

(brough)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 4 Month: October Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Soimpote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, chiengrakuoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows.

**Answer the Defendant 1,2's attorney examination (Continue from 1 October 1999)**

On 1976, the possession of a copyright almost had to value.

On 1976, Plaintiff would earn almost all income from the copyright of ULTRAMAN in Japan market and the income from the worldwide market would worth only 1% of Japan market.

On 1976, the ULTRAMAN was still not broadcast worldwide.

The media related to ULTRAMAN, which exported by the Plaintiff, was only television movie, which is in the form of 16 mm film. The market was still small and had a small value. The copyright fee would be USD 200 per episode.

Each ULTRAMAN movie will have around 20 episodes. There are 6 ULTRAMAN movies.

On 1976, there was no product related to ULTRAMAN.

When compare the monetary return with non-monetary return, the benefit I gave to Plaintiff and Mr. Noboru was higher than license fees.

On 1976, when compare the BAHT with Yen, JPY 100 would equal to Baht 6. Now JPY 100 is equal to Baht 40.

The benefit in monetary form that I gave to the Plaintiff on 1976 would be in total of JPY 120,000,000, which now will be equal to JPY 1,000,000,000.

After I had the copyright, pursuant to 1976 agreement, I produced the ULTRAMAN AND 11 ULTRAMAN movie, which earned a small income as it was the reproduction of the old movie. I did not produce and product related to this movie and the movie was unpopular.

At that time, Thailand had no copyright law which allows for the arrest of the infringer.

After 1976, the infringer started to be arrested. However the amount fine penalty for the infringer was low. As a result, the infringer still continued to infringe the copyright.

The ULTRAMAN became popular after 1995, which was after the pass of copyright law.

On 1994, the ULTRAMAN started to become popular.

After I had the copyright in 1976, I had the idea to advertise and screen the movie again, including produce the new character. I expanded the film studio in order for more usable area and stated to produce the new character of monster and ULTRAMAN.

The old film studio, which had the area around 5 Rai, was expanded to 65 Rai with the total investment around Baht 100,000,000.

There were the production of book, poster and other publishing in order for exploitation.

After such products had been produced, there were a lot of infringement occurred. Such infringement caused me damages.

There was the infringement on plastic figure, which caused me damages.

I lost my trade benefit for many ten million Baht.

I produced products in many forms.

My legal proceeding against the infringers failed because they were not worth the expenses and the fine penalty was low.

Around the end of 1994, the Department of Intellectual Property, Ministry of Commerce, announced for the owner of copyright to register the copyright in order to show the ownership with the department.

I registered the copyright of ULTRAMAN.

During 1994 to 1995, there was the modification of the copyright law. The penalty was increased with both imprisonment and fine penalty.

I was seriously file a legal prosecution against the infringer and could arrest around 20 infringers.

There was the news about my legal prosecution in the newspaper.

Those who were arrested mostly requested for the settlement at the police station, which I also agreed. They would pay the compensation to me until I satisfied and withdrew the petition. The police officer would not file a legal prosecution to them as the infringement of copyright is a compoundable offense. These appear as on the reports of the police officer (as per document Lor.115 to Lor.123).

There was a case of Mr. Somsak which the case was sent to the court. The court of first instance decided that Mr. Somsak infringed the copyright of ULTRAMAN. Mr. Somsak appealed the case. The appeal court upheld the case, pursuant to document Lor.35 and Lor.124.

I knew the VDO Square Co., Ltd., which infringed the copyright of ULTRAMAN and JUMBO A by produced and distributed the VDO movie throughout Thailand. Such performance of VDO Square infringed my copyright, pursuant to 1976 agreement.

I used to make a contact with VDO Square Co., Ltd. and VDO Square showed me the licensing agreement and mentioned that they purchased the copyright from Ultra Com Ink Co., Ltd. in the United States. My attorney sent the notice to Ultra Com Ink Co., Ltd. in the United States stated that the copyright in ULTRAMAN is mine and requests them to stop the infringement or else I will file a legal prosecution against the Ultra Com Ink Co., Ltd., pursuant to the notice (as per document Lor. 86).

The notice was sent to Mr. Joe Taritero, president of Ultra Com Ink Co., Ltd. and sent copy to the Mr. Jimmy Ugawa and Mr. Saito of foreign department of Tsuburaya Production Co., Ltd., Plaintiff, and Mr. Manosh Assawaniwet of VDO Square Co., Ltd.

Ultra Com Ink was the trade distributor of the Plaintiff.

Mr. Phum Wasna received the notice on the behalf of VDO Square, pursuant to the certified document (as per document Lor.303).

Around 1996, I started to make a contact with Ultra Com Ink Co., Ltd.

I showed the 1976 agreement to VDO Square Co., Ltd. and VDO Square Co., Ltd. queried the Plaintiff.

Ultra Com Ink Co., Ltd. informed me that they are the distributor of Plaintiff and will not stop the infringement of the copyright. After that there was a settlement between the attorneys. Detail is as on the document Lor.193, Lor.194 and Lor.196.

On May 1996, I traveled to file a legal prosecution against the Ultra Com Ink Co., Ltd. I stoped at Japan first. During my stop at Japan, I was contacted by Mr. Jimmy Ugawa and requested to meet me. I met Mr. Jimmy Ugawa in the hotel in Japan. Mr. Jimmy Ugawa came with Mr. Saito and this ws the second time I had a chance to meet Mr. Jimmy. The first time I met him was in 1995 at Mr. Noboru Tsuburaya's bone embedded ceremony at the cemetery.

Mr. Jimmy told me that he was the one who named the Ultra Com Ink Co., Ltd. I came to that meeting in Japan with Defendant 3.

Mr. Jimmy said that Ultra Com Ink Co., Ltd. was the Plaintiff's affiliate and would like to settle the issue in order to avoid the legal prosecution.



I showed the 1976 agreement to Mr. Jimmy. Mr. Jimmy was frightened and said that he has never acknowledged this before and said that this could be negotiated as I used to be the old student of Mr. Eiji Tsuburaya. In addition, he did not want Ultra Com Ink Co., Ltd. to face any issue.

Mr. Jimmy saw the 1976 agreement and did not dispute it.

After 1976, as well as Ultra Com Ink Co., Ltd., Plaintiff also licensed to other company the right to use the ULTRAMAN. Mr. Jimmy claimed that the Plaintiff has never acknowledged the existence of 1976 agreement.

Mr. Jimmy proposed whether I will be satisfied and submit the claim to Ultra Com Ink Co., Ltd. and other companies, which licensed the right from Plaintiff after the 1976 agreement, if Plaintiff and the president of Ultra Com Ink Co., Ltd. sent the apology letter. He also claimed that the Plaintiff will suffer damages, if the legal prosecution occurs.

Mr. Jimmy said that Mr. Noboru, the company's president, just died and asked to forgive and ensured that he will prepare the apology letter. As a result, I agreed.

The evidence, which shows the first time I met with Mr. Jimmy Ugawa on 23 July 1995, is a photo (as per document Lor.304).

There was the exchange of name card and matchbox on such meeting with Mr. Jimmy and Mr. Saito, pursuant to card name (as per document Lor.305) and matchbox (as per document Lor.197).

After that date, on 24 July 1999, Mr. Kazuo had invited me to celebrate my birthday at Plaintiff's office. I also brought my son, which is Defendant 3 with me. There was a photo taken, pursuant to the photo (as per document Lor.306).

Plaintiff sent Mr. Jimmy Ugawa to negotiate with me in order to make a settlement for Ultra Com Ink Co., Ltd. and other companies, which licensed the right from Plaintiff. The offer for the settlement is as on the document Jor.188.

Afterward, Mr. Jimmy told me that Mr. Joe Taritero, president of Ultra Com Ink Co., Ltd., denied to signed on the apology letter and asked Mr. Kazuo Tsuburaya to singly signed on the letter, which I accepted. On 17 July 1996, I had met Mr. Jimmy for the fourth time in order to prepare the apology letter, pursuant to the copy of photo (as per document Lor.307).

Thereafter, on 22 July 1996, I had met Mr. Jimmy, pursuant to the photo (as per document Lor.203).

On 13 July 1996, I had met Mr. Jimmy for the sixth time in order to sign on the apology letter, pursuant to the photo (as per document Lor.308).

In addition, I also met Mr. Jimmy in Thailand, pursuant to photo (as per document Lor.309).

The claim of Mr. Jimmy that he met me only 3-4 times is inaccurate.

Some photos do not have me in the picture because I was the photographer.

I negotiated with Mr. Jimmy in English by having my son, Defendant 3, as the interpreter because my son knows English better than me.

As a result, Defendant 3 also has knowledge on apology letter as well.

Plaintiff issuance of apology letter and receiving the right pursuant to 1976 agreement were conducted with willingness and appreciation because I did not file a legal prosecution against them. In addition

they also invited me to the banquet. Such performances of the Plaintiff did not occur from the fraud or deception.

I have never made a contact with the Plaintiff in order to request to be the Plaintiff's distributor in the copyright of works in 5 Asian countries and has never requested for such right because I already assigned the right in copyright worldwide, excepted Japan, pursuant to 1976 agreement.

Pursuant to 1976 agreement, Plaintiff will not entitle for the right in ULTRAMAN in 5 countries or other countries worldwide. Plaintiff will be entitled for the copyright in Japan only.

Plaintiff claimed that the issuance of apology letter was done because of the deception of the Defendant. Due to the fact that that it understood the Defendant requested for the issuance of letter in order to become the distributor of the Plaintiff. However, after the issuance of such letter, the Defendant did not request to be the Plaintiff's distributor. Such claim is inaccurate.

5 countries claimed by the Plaintiff, pursuant to document Jor.47, are also inaccurate.

I did not involve with the preparation of this document Jor.47, which specifies the 5 countries include with Thailand, Myanmar, Vietnam, Lao and Cambodia.

Plaintiff prepared apology letter for me and hoped me and Plaintiff to continue to do business further as I am the owner of the copyright worldwide. I have my own studio with the equipment ready for the production of new movie.

After the issuance of apology letter, there was the negotiation on trade issue. However, such negotiation failed because I did not agree with their term because the Plaintiff claimed too much right.

There were a lot of negotiations on trade in both Thailand and Japan. The negotiation had meeting, exchange the letter and usage of facsimile.

The Defendant 3 knew the negotiation well as he used the English in the negotiation.

The negotiation spent several months.

During the negotiation, I never sent the notice for requesting to be the distributor of copyright in 5 countries.

After the negotiation had failed, Plaintiff filed a claim in this case.

Plaintiff filed a legal prosecution against me because I had organized the arrest of the infringer of copyright, which is BKC Co., Ltd.

BKC Co., Ltd., located in Thailand, was the importer of ULTRAMAN product in Thailand. It was the affiliate of Bandi Co., Ltd. in Japan, which is the Plaintiff's major customer.

Page 4 of the Plaintiff that the Plaintiff claims that several ULTRAMAN, including the ULTRAMAN movies, are the copyright works of Plaintiff pursuant to the law of Japan and are under the protection of the copy right law of Thailand, is inaccurate.

Plaintiff has never broadcasted any ULTRAMAN, including ULTRAMAN movies, in Thailand.

I was the first person who calls ULTRAMAN as Super Human (ยอดมนุษย์).

I was only person who broadcasted the ULTRAMAN movies in Thailand.

None of the Plaintiff's Japanese witnesses who gave the testimony in the court would know the word Super Human.

The document Jor.6, which is the power of attorney made in English, does not have the word Super Human, while the translation (as per document Lor.7), which is the additional translation, has the word Super Human.

Page 4 of the Plaintiff's Plaint, which claims that I infringed the copyright of ULTRAMAN by the publishing of coloring book, is inaccurate. Because the copyright work, which broadcasted in Thailand, belongs to me. The broadcast of ULTRAMAN copyright had been done by me before the claim in this case for almost 30 years without any dispute.

Before the claim in this case, I also had a performance which has the commercial purpose but no one disputed such performance. Until now no one has disputed my copyright.

Plaintiff, who claims to have the copyright, does not broadcast the ULTRAMAN work in Thailand.

The claim of that I report the false statement in order to claim for the compensation from the copyright of ULTRAMAN work is inaccurate because the legal prosecution on copyright infringement and the compensation were the legal usage of my right.

Until now the person who was filed a legal prosecution by me has never disputed or filed a counterclaim against me.

(The witness has given the testimony until this time at 12.30 p.m. and still does not finish the Defendant 1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) ..... Judge (record-read) ..... (Signature)..... Witness

(Pluemjit Jullaroek) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature)..... Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature)..... Associate judge ..... (Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defenant 1,2's witness

(brough)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 5 Month: October Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Sompote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: Contractor
4. Residing at: 99/9, chiengrakuoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows.

**Answer the Defendant 1,2's attorney examination (Continue from the appointment on 4 October 1999)**

The Plaintiff claimed that the document uses the wrong word for the transfer for right such as "license" or "grant". Moreover, there are the misspelling of the movie name such as the misspelling on English name of JUMBO A and the misspelling on the name of HANUMAN. In addition the call of the name of the movie set and the amount of the episode are wrong. Such suspicious clauses Plaintiff has never mentioned to me before. Plaintiff just testified such suspicious clauses on the preliminary examination and witness examination process.

The heading of the agreement specifies the word "License Granting Agreement" or "license" or "grant". Mr. Noboru assigned the person in Tsuburaya Enterprise Co., Ltd., which called by Mr.

Noboru as "Teacher" or "Sensei", to draft the agreement. I do not know his name but know that he works at the agreement drafting and foreign department. The word used in the agreement is the word using in the movie industry. The drafter of this agreement is not a lawyer or attorney. As a result, the word license is also cover the copyright.

This agreement was made by Mr. Noboru at Tsuburaya Enterprise Co., Ltd. in Tokyo. There was 1 day negotiation before entering the agreement. The parties in the negotiation were Mr. Noboru, the drafter, me and Mr. Nichom Srisurat. Mr. Nichom was my partner, graduated the law from Thammasat University and has a good knowledge in Japanese. Mr. Nichom occupation was not related to law. Mr. Nichom died in 1997.

This 1976 agreement was published on the date signing the agreement with me, Mr. Nichom, Mr. Noboru and the drafter presented.

When read, the content in the agreement complies with what was agreed because all the right in ULTRAMAN works and JUMBO A in the list were transferred to me.

On the signing date, Mr. Noboru had inspected the agreement and said that this agreement only specifies Tsuburaya Enterprise Co., Ltd., while Mr. Noboru was the president of two companies including Plaintiff. As a result, he added the Plaintiff name in the agreement. Mr. Noboru told that all the ULTRAMAN works belong to Plaintiff, while Tsuburaya Enterprise was the distributor of Plaintiff's work. He ordered the addition of both companies' name in the agreement but as the old agreement only specified the name Tsuburaya Enterprise Co., Ltd. Instead of republishing the agreement, for convenience, he ordered the addition of "prod. And" in the above line and bottom line, which still had the space. Because there was no left space, the full name of both companies could not be added. The drafter typed the word pursuant to Mr. Noboru's order.

In the Japanese movie industry, when using the initial name "Tsuburaya prod." means Plaintiff, while the initial name of "Tsuburaya Enterprise" is "enterprise". Mr. Chuchcap used to testify certify this. The initial word "Tsuburaya prod." also used in the Plaintiff's product such as those as on document Lor.43 and Lor.42.

As a result, when using the word "Tsuburaya prod. And Enterprise Co., Ltd.", both Mr. Noboru and me understood that it means 2 companies, which are Plaintiff and Tsuburaya Enterprise Co., Ltd.

The drafter typed such additional word and I do not know whether the drafter used a typewriter in order to type this additional word.

The typing the name of movie in the agreement was done by the drafter. There might be some misspelling but it can be understood what movie it mentions to. If the drafter is Thai, he will not misspell HANUMAN as "HARUMAN".

Although, the Plaintiff testified that ULTRAMAN SEVEN should actually be ULTRA SEVEN, the Plaintiff still used the word "ULTRAMAN SEVEN" on the screenplay which Plaintiff sent to me when I purchased the movie equipment 2-3 years ago. The screenplay is as per document Lor.320.

The Japanese are not expertise in English. As a result there may be some mistake in the English sentence. In my opinion, it is a small mistake such as the misspelling of IANUMAN, and I did not dispute in order for the modification as it would spend a lot of time.

There is no other movie using a similar name as the name appears in Clause 1, which may cause confusion.

While entering the agreement, there were 6 ULTRAMAN movies already produced, which when sorted by Clause 1.3 to 1.8 shall have 6 characters including: ULTRAMAN, ULTRA SEVEN, ULTRAMAN JACK, ULTRAMAN ZOFFY (THE RETURN OF ULTRAMAN), ULTRAMAN A and ULTRAMAN TARO. In addition there were also the characters of the father, mother and grandfather of ULTRAMAN, which all the three characters have to specific name. As the ULTRA Q has only the character of monster and has no ULTRAMAN character in the movie, the “?” mark was added. The ULTRAMAN movies were the creation of several characters to fight the monster in ULTRA Q. In addition, there are monsters, which have character from ULTRA Q, used in movies in Clause 1.3 to 1.8.

The movie, which was screened in Japan and used the name “White monkey and Six Ultra Brothers” or which used in Japanese language and can be translated as “Six Ultra Brother and the Army of Monsters”, is the same movie to the HANUMAN, pursuant to Clause 1.2.

The word “grant” when using in the film industry will mean “the transfer of right” or “cede of right”.

I understand that Clause 3 of the dispute agreement means the transfer of all copyright in the movies and in the characters in the movie, including the character in the movie that will be produced in the future, including the right to transfer the right to other people for the trade benefit.

The specification that Mr. Noboru already received the money means (1) the amount which Mr. Noboru received from the sale of GIANT AND JUMBO A movie to Hu Long Film Co., Ltd., Taiwan, in the amount of USD 30,000;

(2) The amount which Mr. Noboru received from the sale of HANUMAN movie to Shaw Brother Co., Ltd., Hong Kong, in the amount of USD120,000; and

(3) The amount which Mr. Noboru received from the sale of HANUMAN movie to Hu Long Film Co., Ltd., Taiwan, in the amount of USD 80,000.

The total amount is USD 230,000, which is the amount that Mr. Noboru earned from the sale of my movie to others.

In addition to USD 230,000, Mr. Noboru also compensated for my assistance to produce the two movies, which were invested in the total amount of USD 165,000 at the time when Plaintiff faced a financial crisis, including the assistance to purchase movies and introduce Mr. Chuchep to help purchase the movies from Mr. Noboru.

In addition, Mr. Noboru also made a mistake by sold the negative and sound, which I kept at him, to Hu Long Film Co., Ltd. This caused me to not have the original film of the movie with me. Such conduct was done without permission and was a criminal offence in Japan. However, I still keep the negative of HANUMAN.

The agreement to sell the HANUMAN (as per document Lor.40) in the amount of USD 120,000 was dated on 19 February 1975. Mr. Noboru lent such amount for 1 year. However, when it was due and I asked him about such amount, Mr. Noboru told me that the outcome of the company still bad. Mr. Noboru proposed to transfer all the right in ULTRAMAN and JUMBO A works to me and for compensation, I would lift all the obligations for him, including not filing a legal prosecution for the unauthorized sale of GIANT movie and the unauthorized printing of HANUMAN movie. For the sake of Mr. Eiji, I agreed.

On that day, the copyright in ULTRAMAN work almost had no value because the ULTRAMAN work was not widespread advertised and there was not much verity of the medias and the economy was



bad. The copyright would have much value in Japan because Japanese people like to watch Japanese movie and the movie earned most of its income from the domestic, especially, from the television. The granting of right to me worldwide, excepted Japan, pursuant to the 1976 agreement, will not impact the income of Plaintiff.

On 4 March 1976, which was the date entering the agreement, Mr. Noboru had told me that it is the present for Defendant 3, which is my son and born on 4 March, pursuant to the copy of the identification card (as per document Lor.321).

The typing of the additional word "prod, and" was done before the signing of the agreement.

Like the signing of the signature which was done in front of me, Mr. Noboru also affixed the hango seal in front of me and everyone.

Mr. Noboru told me that he sign on behalf of Plaintiff and affixed the Hango seal as the authorized person of Tsuburaya Enterprise Co., Ltd. the reason for not affix both companies seal is because the affix of the Tsuburaya Enterprise Co., Ltd.'s seal would equal to certify the Plaintiff and it was not a common practice in Japan at that time. Mr. Noboru was the president of both companies and had the authority to act on behalf of both companies. No matter he affixed the hango seal or signed his signature, it will bind both companies

This agreement was prepared in English for convenience to use in the foreign countries. Mr. Noboru also signed on the agreement as only the hango seal without the signature may not be accepted in the foreign countries.

Mr. Noboru affixed the circle seal, which is the seal of the president. He did not have to use the square seal as it is the seal of the department. The president will use only the circle seal such as on the agreement between Bandi Co., Ltd and Plaintiff (as per document Lor135).

The Plaintiff has never disputed whether this hango seal is a false or inaccurate seal.

The Plaintiff has never disputed on the paper used in the 1976 agreement.

The letter (as per document Jor.178) uses the heading as well as the 1976 agreement. In addition, in such year, the agreement which made by the Plaintiff such as the document Jor.172 and Jor.175 would use the similar heading that used in 1976 agreement.

The paper texture of 1976 agreement is thin and glossy, which is specialty for Tsuburaya Enterprise Co., Ltd. this paper will be used to prepare the significant agreement and the heading, which specifies the name of the company will be published in brown color.

(The witness has given the testimony until this time at 12.00 p.m. and still does not finish the Defendant1, 2's attorney examination. The Court postpones the examination to the afternoon.) / read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature).....Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Sirariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2



..... (Signature).....Associate judge  
(Mr. Pramuk Sawatmongkol)

.....(Signature)..... Defendant 3

..... (Signature)..... Court officer

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defendant

1,2's witness (brough witness)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 1 Month: November Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Sompote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: contractor
4. Residing at: 99/9, chiengrakuoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:.

**Answer the Plaintiff's attorney cross-examination (Continue from the morning)**

I signed on the Agreement (as per document Lor.29) as an assistant seller, while Mr. Noboru signed as the guarantor of the seller. The original copy was sent for investigation at the Office of Police Forensic Science as per the Plaintiff's request.

Before having me to sign the Agreement (as per document Lor.29), Mr. Noboru had already sold the negative film to Mr. Lee Shen Long. Such Agreement specifies the area of the Far East, excepted Thailand and Japan.

The document which shows that Mr. Lee Shen Long made a payment to Mr. Noboru in the amount of USD 30,000 is pursuant to document Lor.286. Such document was made on 10 December, the year 65 of Taiwan, which was 1975. The heading is mine.

The signature of Mr. Lee Shen Long in document Lor.286 was in Chinese. The part which appears in document Lor.29 in English was the stamp signature not handwriting.

I did not contact Mr. Lee Shen Long for a long time.

Such performance of Mr. Noboru should be acknowledged by Plaintiff's people. As Mr. Morishima testified that he knows Mr. Frank Wong well and he acknowledges the performance of Mr. Noboru. In addition to Mr. Mishima, other persons in the Plaintiff also acknowledge this.

There is content in Clause 5 of the Agreement (as per document Lor.29) specifies that the negative film was kept in Tsuburaya Enterprise Co., Ltd.

I do not have a business contact with Taiwan.

I have never met Mr. Lee Shen Long in Taiwan. I used to meet Mr. Lee Shen Long at Tsuburaya Enterprise Co., Ltd.

The only contact document between Mr. Lee Shen Long and me is a business card.

Mr. Noboru made an appointment for me to meet Mr. Lee Shen Long. Mr. Lee Shen Long was the old Taiwanese who can speak Japanese.

Mr. Lee asked me to certify that Thailand is the birthplace of GIANT AND JUMBO A movie in order to use the right pursuant to the Agreement.

The payment of USD 30,000 to Mr. Noboru was oral agreement. I do not know whether there was a screening of the movie on the Agreement at that time.

I do not know how many installments of the payment pursuant to the Agreement Lor.29.

There is an agreement pursuant the Agreement (as per document Lor.29) that should the movie does not pass the censor, Mr. Noboru has to return the USD 20,000.

The HANUMAN Agreement (as per document Lor.103) complies with document Lor.160. However, the distinction between these two documents is only the using of the month name, which document Lor.103 uses full September, while document Lor.160 uses Sept. abbreviation.

The signing date was 3 September 1974. However, such date was after finishing the production of HANUMAN movie.

The compensation, pursuant to the Agreement (as per document Lor.160) in the amount of USD 90,000, was already paid to the Plaintiff.

Production cost is a lump sum expense for the movie production which does not specify the detail of the payment.

The shooting of HANUMAN was done in Thailand than Japan.

For actor who wore puppet, if the shooting was done in Japan, the actor would be Japanese and if the shooting was done in Thailand, the actor would be Thai.

The shooting in Thailand was done in order to shoot the picture to make a compositing technique. In addition the shooting was also done in Japan. The shooting was done both in my film studio and film studio in Japan, the screen used in this movie are both Thailand and Japan. However, the screen in ULTRA SEVEN was not used.

The expense occurred from the shooting in Thailand was my responsibility. In the same way, the expense occurred from the shooting in Japan was the responsibility of Plaintiff.

There is no regulation about the copyright, pursuant to the Agreement (as on document Lor.160 or document Lor.103). It is deemed that the copyright was also given, when the original negative and sound negative were given.

Invoice (as per document Lor.229) was made in order to use in the custom procedure. There was no actual payment pursuant to this invoice, but the payment was done pursuant to the Agreement.

Such invoice regulates the authorized jurisdiction as the Far East, excepted Japan.

The production of HANUMAN movie was finished on 3 September 1974. In such year I did not produce any other movie.

Invoice (as per document Lor.289) is the additional expense and does not relate to those regulated in the Agreement.

On that period, the currency exchange was Baht 7 per JPY 100. The first page of document Lor.289 shows the amount of round trip plane ticket from Bangkok to Tokyo in the amount around Baht 6,400 (JPY 88,940).

Invoice No.2 (as per document Lor.289), in the amount of JPY 900,000 (Baht 63,000), is the amount of HANUMAN movie negative film. However, it does not specify that it is the amount of such movie.

Invoice No.3 (as per document Lor.289), in the amount of JPY 900,000, is also the amount of negative film, but does not specify.

Invoice No.4, dated on 20 January 1975, in the amount of JPY 1,000,000 (Baht 70,000), is part of the expense for movie production.

The final invoice, dated on 20 January 1975, in the amount of USD 6,640 (Baht 120,000), is the additional payment.

Invoice (as per document Lor.22), in the amount of JPY 5,900,000, is the payment of additional published copy film, which I had to make additional payment. As the USD 90,000 payment is only for the production cost.

Plaintiff did not issue an invoice for the payment pursuant to the Agreement in the amount of USD 90,000, as it deemed already specified in the Agreement and there is no separation of the expense detail due to its lump sum nature.

I made a payment for this HANUMAN movie in the total amount of USD 120,000. All the documents were already submitted to the court.

Picture No.2 of the document Lor.292 was taken with Sir Run Run Shaw at Dusit Thani. Picture No.1 was taken at Mr. Shaw's company in Hong Kong. Picture No.1 was taken after picture No.2 had been taken around 2-3 months.

The Agreement (as per document Lor.295), which I entered with Po Wah Film, relates to the HANUMAN AND ELEVEN ULTRAMAN. The document Lor.273 which I entered with Mr. Vee King Shaw relates to the HANUMAN AND THE 5 KAMEN RIDERS. Detail of the Agreement is as on the similar form. The draft of the 2 agreements was prepared by the parties which I did not make it.

The 2 companies pursuant to the Agreement do not relate to each other. However, they use the similar form as such form is used in the Hong Kong film industry.

Sir Run Run Shaw purchased the HANUMAN AND 7 ULTRAMAN movie in the amount of USD 120,000 and entitled for the copyright in this movie for 7 years, excepted Thailand, Japan and Taiwan. This exception is my request.

The negotiation was done in Thailand. Sir Run Run Shaw said that he will make a payment when the original of negative is delivered to him.

The negative was kept in Tokyp Lab. Mr. Noboru was the person who take delivered the negative and sound to Sir Run Run Shaw in Hong Kong and received the payment. He also negotiated the jurisdiction with Sir Run Run Shaw. The 7 years period was regulated by me since the beginning. I did not attend the negotiation myself because I was occupied by the screening of the movie.

Now the negative and sound are with me. On 1979 Mr. Noboru wanted the film. He then requested me to take the negative from Mr. Shaw and would make a payment to me in the amount of JPY 5,000,000. As a result, I took the film from Mr. Shaw and received JPY 5,000,000 from Mr. Noboru. Afterward, I returned the film to Mr. Shaw. Notwithstanding, it appeared that Mr. Noboru secretly copy the film.

Mr. Shaw had kept the negative until 1982 when I requested the return of negative as the 7 years period of the Agreement was due.

The delivering of film between me and Mr. Shaw had the document which I signed as the receiver. The importation of the film in Thailand required the consignment note. However, the original negative of HANUMAN movie was kept at Mandarin Lab Co., Ltd. in Hong Kong.

The usage of edited film of HANUMAN AND 11 ULTRAMAN was edited from the copy version.

At that time, I called Mr. Noboru to bring the negative to Mr. Shaw because I trusted Mr. Noboru.

Mr. Noboru entered the Agreement with Mr. Shaw, pursuant to document Lor.40. Such document was prepared by Mr. Shaw in order for Mr. Noboru to sign. The specified amount in the Agreement is USD 120,000, which complies with the amount agreed with me. On the jurisdiction given to Mr. Shaw, Mr. Noboru added the right in several countries for Mr. Shaw, which actually Mr. Shaw should entitled for the right in only the Far East, excepted Thailand, Taiwan and Japan.

Mr. Noboru showed the document Lor.137 to me and said that he sold my HANUMAN movie to Hui Long Film in the amount of USD 80,000. It appears that document Lor.137 has a signature of Mr. Noboru but has no content related to the sale of movie to Hui Long Film. Only the amount of USD 80,000 appears in the last page. Firstly, I understood that Mr. Noboru gave me a wrong document.

Although, document Lor.40 has clause 5, document Lor.137 does not have content in Clause 5. Other contents in both agreements are similar. Document Lor.137 does not have a signature of Mr. Shaw side. Due to the fact that document Lor.137 specifies the amount at USD 80,000 which does not comply with the negotiation. Notwithstanding, document Lor.40 has signature from Mr. Shaw side.

Document Lor.137 and Lor.40 were given to me by Mr. Noboru in Tokyo. For document Lor.137, I did not request the original copy which made in Taiwan as there was the preparation of 1976 Agreement.

When borrowing the amount, which had been sold to Mr. Shaw and Taiwan, Mr. Noboru received the amount and told me that he would make a repayment within 1 year and the due date was on February 1976. When Mr. Noboru did not make a payment, we, therefore, entered the 1976 Agreement.

Although I did not make it a big issue, before entering the Agreement, I had already requested for the repayment.

Mr. Noboru proposed to prepare this 1976 Agreement. The conditions in this Agreement were specified by Mr. Noboru.

Mr. Noboru had me to inspect the Agreement on 3 March 1976, 1 day before signing the Agreement on 4 March.

Posters (as per document Lor.293) were the poster that I installed at the wallpaper in my house. I installed them both vertically and horizontally. I do not know whether the content in document Lor. 293 is related to Hu Long Film as it was written in Chinese.

The poster installed in my house (as per document Lor.314) is marked with \*.

The inside covers of document Lor.243 is the picture that had been installed before the filing the claim, as well as the picture of Buddha statue (No.21 right and left and No.23 left and right), which also installed before filing the claim.

I do not know when the ULTRAMAN would be advertised in other countries, excepted Japan and Thailand.

HANUMAN AND 11 ULTRAMAN movie was edited from the old movie by editing the HANUMAN AND 7 ULTRAMAN with ULTRAMAN ZOFFY television movie. Mr. Noboru gave me the normal 35 mm film to me for editing. However, I had to make a cinemascope. I did not make an agreement on that time and after I had looked through the document, I did not found the agreement. Only the equipment fee in the amount of USD 18,000 was paid to Mr. Noboru.

After the production of the HANUMAN AND 11 ULTRAMAN, I did not involve with the production of any ULTRAMAN movie again.

(The witness has given the testimony until this time at 4.30 pm and still does not finish the Plaintiff's attorney cross-examination. The Court postpones the cross-examination to the next appointment.) / read

..... (Signature) .....Judge (record-read) ..... (Signature).....Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature).....Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Sicariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature).....Associate judge .....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer

(Unofficial Translation)

For the Court use

(21 por.)

Testimony of Defendant

1,2's witness (brough witness)



Black case (Pending case) No.Or.36/2540

Court: Central Intellectual Property and International Trade

Date: 12 Month: November Year: 1999

Case: Criminal

Tsuburaya Productions Company Limited

**Plaintiff**

Between

Tsuburaya

Chaiyo Company Limited No. 1 and 3 others

**Defendant**

I, already

took an oath, would like to testify as follows:

1. My name is Mr. Sompote Saengduenchai
2. Date of birth: -, age: 57
3. Position or profession: contractor
4. Residing at: 99/9, chiengrakhoy Sub-district, Bang Pa-in District, Phra Nakhon Si Ayutthaya Province
5. Relation with Parties: Defendant 2

And will testify as follows:.

Answer the Plaintiff's attorney cross-examination (Continue from 4 November 1999)

I could conveniently entered Tsuburaya Enterprise Co., Ltd., as the employee knew me well.

On 3 March 1976, Mr. Noboru had shown me the draft of the Agreement. On that day it was draft by handwriting in English together with draft in letterpress.

I requested to modify the word "Hanuman" which was written in English.



On 4 March, Mr. Noboru ordered to type the word "Prod. And". Mr. Noboru did not give me the draft of the Agreement. Actually sensei was the one who show me the Agreement, while Mr. Noboru just sat in that room.

On 3 March, I had been at Tsuburaya Enterprise Co., Ltd. for 1 hour before returned to my accommodation. We had the next appointment tomorrow in order to sign the Agreement.

I returned from Tsuburaya Enterprise around 4-5 p.m.

On 4 March, I had a meeting with Mr. Noboru around 3-4 p.m. as Mr. Noboru will have other meeting around such period. On that date I did not see Miss Kochima or Mr. Morishima.

Mr. Noboru was waiting for me when I arrived.

The addition of "Prod. And" was done by sensei by order of Mr. Noboru. On that date the Agreement was draft in the light paper.

Sensei brought the draft to type the additional word around 5-10 minutes.

When I was having a meeting with Mr. Noboru on such date, I also met Miss Iraki, Mr. Noboru secretary.

Miss Iraki sat in front of Mr. Noboru office and did not come in the room.

There were 4 persons present in the room while signing the Agreement, Mr.Noboru, sensei, me and Mr. Nichom.

Mr. Noboru attached both circle seal and alphabet seal. I should be noted that the alphabet seal is bevel. Mr. Noboru would rebuke, if it had been done by other person.

I saw both seal on Mr. Noboru's table.

On that day, I cannot remember whether I signed my signature or attached my seal first.

On 4 March 1976, I has been at Tsuburaya Enterprise Co., Ltd. around 1 hour. On the evening Mr. Noboru took me and Mr. Nichom to celebrate at the most expensive and famous restaurant, which sell the grill food, 5 minutes' walk from his officer. Sensei also was with us.

I understood that there was a photo taken when signing the Agreement but I still not find such photo.

Mr. Noboru had put the Agreement (as per document Lor.10) in envelope (as per document Lor.301) before gave it to me.

I do not know why I did not have to sign my signature in the Agreement (as per document Lor.10).Mr. Noboru did not tell me to sign in any document.

The document Lor.10 does not have Plaintiff's seal. Mr. Noboru said that he is the president of both company. As a result, when he signed on the document, it would be effective.

On several agreements such as JUMBO A, HANUMAN or GIANT AND JUMBO A, Mr. Noboru would only sign his signature and not affix his seal.

I went back from the restaurant around 7 p.m.

I would show this Agreement (as per document Lor.10) to only my close friend or close family member.

During 1995-1996, I would show the 1976 Agreement to the authorities upon their request.

This 1976 Agreement was made in duplicate. One copy is with Mr. Noboru. Such copy also used the light paper as well as the one with me. I do not know whether such copy would use a carbon paper letterpress or reprinting.

While signing the Agreement, I understood that it will be used in the foreign countries. I did not have notary public to notarize the Agreement as there was no notary service in Japan on that time.

The heading of document Lor.10 and Lor.237 were taken a photocopy and are similar to the heading of document Lor.229.

I do not certify that the heading of document in the set of documents Jor.170, which was the document that delivered to Mr. Yoshimura, is a heading of Tsuburaya Enterprise Co., Ltd.

The content in the heading of document Lor.10 and Lor.178 has the same meaning. However, the letterpress is different.

Similarly, the heading of document Lor.229, Lor.37 and Lor.178 ha the same meaning. However, I do not know how the heading of document Lor.10 would be used.

Document Lor.138, Lor.298, Jor.83 and Jor.177 do not have the heading of Tsuburaya Enterprise Co., Ltd.

As a result, the agreements entered with Tsuburaya Enterprise Co., Ltd. might use both heading and non-heading document.

This document Lor.35 was affixed by only circle seal of Bandi Co., Ltd., due to the seal was already affixed by the president of company. However, The affix of Plaintiff's seal needs both square and circle seal, as the issue was proposed by the responsible department and the circle seal needs to be affixed. This is the normal practice of Japanese company.

I insist that I am entitled in the Plaintiff newly created work. I do not have a responsibility in the expense but I would be entitled when the production was finished. Presently, I do not know how much the works were produced.

The profit from the ULTRAMAN that the Plaintiff had been received before entered the Agreement would certainly belong to the Plaintiff, although this does not mention in the Agreement.

Document Lor.10 does not specified the Japanese law to be the governing law.

I do not know the fact before aligning the Agreement that Mr. Noboru used to license United Artist and to ULTRA Q Co., Ltd. to distribute the ULTRAMAN work until 1980. Mr. Noboru also never mentioned this to me.

After entering the Agreement, Mr. Noboru never mentioned about the distribution of ULTRAMAN work of Tsuburaya Enterprise Co., Ltd. in foreign countries again.

The Plaintiff later produced several ULTRAMAN works. I did not involve with such productions and therefore, therefore, there was no licensing of right to me.

I had stopped the production of cinema movie in 1986 before started the production of documentary and commercial. Now I have a Ramakien project.

My investments in movie are as follows: 400,000 for Thatien, USD 75,000 for JUMBO A, USD 120,000 for HANUMAN and USD 18,000 for HANUMAN AND II ULTRAMAN.

This is the first time I have ever seen the Rule of Copyright Registration of the Department of Art (1983), which was shown in document Lor.306.

On the registration of copyright (as per document Jor.88, Jor.89 and Jor.90), I did not give the detail, pursuant to Clause 6, the receive transfer of copyright, as the authority said that it was the co-creation. I, therefore, underlined the word author.

I delivered the negative film on the date signing document Lor.40, which the payment was made in cash.

I do not remember how many old passports that I keep. Normally, the Ministry of foreign Affair will take the old passport back. I submitted to the court only two copies of passport. The original copies were already missing. In addition from those two passports, the only with me is the present one.

The passport (as per document Lor.279) was issued on 31 August 1974, while the passport (as per document Lor.319) was issued on 24 June 1975 and validated until 12 May 1978. The present one has been used for almost 10 years and was extended several times.

The Defendant 2's list of the detail (as per document Jor.307) does not appear to have the submission of list of income from ULTRAMAN. Whatever the fact will be, I reserved the right not to answer the question, as it might result in me being liable in both civil and criminal offence.

Before 1970, Toho Co., Ltd. had a shares in Plaintiff exceed 50% but I do not know the exact number. I do not know whether after the withdrawal of shares, it may has shares left in company around 19%, pursuant to document Jor.308, which was presented by the Plaintiff.

I was the first person who used the word "Super Human" (ยอดมนุษย์), and thereafter it became a widespread common word.

I did not use the word Super Frog Human (ยอดมนุษย์กบ), pursuant to document Jor.309, and I also did not involve with it.

The photo (as per document Lor.54) has the picture of ULTRAMAN figure, which I purchased from Mr. Noboru to show in the opening of movie for the charity event. Siriraj hospital imported such figure and the income from the movie belonged to Siriraj hospital.

The case which I sued Mr. Takano is now dismissed by the Bangkok South Municipal Court, pursuant to document Jor.310.

I understand that the reason why ULTRAMAN LEO which was produced before 1976 in the Agreement (as per document Lor.10) was that Mr. Noboru might see that the copyright of ULTRAMAN LEO still belong to television station not Plaintiff's. Document Jor.18 has a content specifies that broadcast in Japanese, which equal to December 1974, finished on March 1975, pursuant to document Jor.311.

The translation (as per document Jor.312) which translates the Japanese language on the envelope (as per document Jor.301) is the correct translation.

The highlighted content in the above line of document Lor.4 can be read as Tsuburaya Enterprise Co., Ltd. the highlighted second line can be read as Tokyo. However, I do not understand the content in the third line as it uses Chinese language associates the Japanese.

(The witness has given the testimony until this time at 12.00 pm until finish. The Court postpones the  
reexamination to the afternoon.) /read

..... (Signature) .....Judge (record-read) ..... (Signature)..... Witness

(Mr. Phonphet Wichitchonchai) ..... (Signature)..... Plaintiff's attorney

..... (Signature)..... Defendant 1, 2's attorney

..... (Signature)..... Judge ..... (Signature)..... Defendant 3's attorney

(Mr. Sonchai Sieariyakul) ..... (Signature)..... Defendant 4's attorney

..... (Signature)..... Defendant 2

..... (Signature)..... Associate judge .....(Signature)..... Defendant 3

(Mr. Pramuk Sawatmongkol)

..... (Signature)..... Court officer